

**FULL COMMITTEE HEARING ON THE
SMALL BUSINESS ADMINISTRATION'S
CONTRACTING PROGRAMS**

**COMMITTEE ON SMALL BUSINESS
UNITED STATES HOUSE OF
REPRESENTATIVES**

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FULL COMMITTEE HEARING ON THE SMALL BUSINESS ADMINISTRATION'S CONTRACTING PROGRAMS

Wednesday, September 19, 2007

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Committee met, pursuant to call, at 10:00 a.m., in Room 2360, Rayburn House Office Building, Hon. Nydia M. Velázquez [Chairwoman of the Committee] Presiding.

Present: Representatives Velázquez, Braley, Clarke, Ellsworth, Chabot, Bartlett, Akin, and Jordan.

OPENING STATEMENT OF CHAIRWOMAN VELÁZQUEZ

Chairwoman VELÁZQUEZ. Good morning. I call this hearing to order. Today the committee continues its work toward opening the Federal marketplace to small businesses. Important tools in this endeavor are an array of programs that through their training and business development help this Nation's entrepreneurs get a foot in the door. The need for this initiative could not be greater. Recently, the Small Business Administration announced that for the sixth year in a row, the Federal Government failed to meet its small business goal costing entrepreneurs \$4.5 billion in lost opportunities. The committee took an important step in building equity through our procurement system when we passed Mr. Braley's bill H.R. 1873, The Small Business Fairness and Contracting Act.

However, to fully benefit from the changes that were made a strong implement of contracting programs is also required. We rely on this initiative to spur the next generation of supplies providing diversity that allows the taxpayer to get the best value for his dollar. Unfortunately, many were created in the 1960s and have seen little change since then. As a result, they have fallen into complete disarray largely due to mismanagement, underfunding and neglect. Modernizing, and in some cases, such as with the veterans and women's procurement program, simply implementing them will be a start.

The way the government purchases services and products is constantly changing. And the bottom line is that this initiative needs to keep pace. No Fortune 500 company will enter into a long-term relationship without a strong understanding of the types of resources that are necessary to keep the partnership growing. But that is exactly what agencies are doing today with the 8(a) program. If we are serious about business development, then it is crit-

ical that barriers are removed, true incentives are provided and long-term relationships are treated as such. This will ensure efforts vested by both sides result in tangible benefits for the Federal marketplace. It is also vital that programs stay true to their original intent.

Earlier this year, this committee took steps to address the practice of large businesses receiving small business contracts. Just as we closed loopholes which cost small business in opportunity, we also need to make sure that contracting initiatives don't small prey to similar unintended consequences. Certain initiatives like the HUBZone have strayed from its initial purpose.

On the surface, it has a goal of economic development in low-income communities. But in many cases, this program fails to accomplish that. Today, 80 percent of all firms are not even eligible after 3 years. And a preliminarily committee review found that many HUBZones contain multi-million dollar homes. This is not exactly what one would expect for an initiative design to spur development in low income areas. Not only are more resources needed for oversight, but also greater protections to weed out the bad actors. While many who raise opposition over this initiative point to the shortcomings, it is important that as the committee proceeds, we focus on the regional intent of supplier development. They are not intended to be handouts and this Nation's entrepreneurs aren't looking for one.

What they do want is a fair opportunity to provide goods and services. With proper reform, this program can do just that. Small businesses play an important role in all of our communities. They are innovators discovering one-third of all new patents. They are the market pioneers representing 99 percent of all exporters. And they are the job creators providing nearly 75 percent of Americans with their first job. Through thoughtful improvements, coupled with legislation passed earlier this year, small businesses can add another function to the list of critical roles that play in today's economy; suppliers to the Nation's taxpayers. With that, I yield to the ranking member Mr. Chabot for his remarks.

OPENING STATEMENT OF MR. CHABOT

Mr. CHABOT. Good morning. And thank you for all being here as we examine the government contracting programs authorized by the Small Business Act and their effectiveness in providing greater opportunities for small business concerns to contract with the Federal Government. This hearing also will provide an overview of the Small Business Administration's management of these programs. I would like to thank the chairwoman for holding this hearing and each of the witnesses for taking the time to provide this committee with the testimony that you will be giving here this morning.

The Small Business Act states that the essence of the American economic system of private enterprise is competition. The preservation and expansion of such competition is basic, not only to the economic well-being, but to the security of this Nation. Such security and well-being cannot be realized unless the actual and potential capacity of small business is encouraged and developed. Small business embodies so much of what America is all about: Self-reliance, hard work, innovation, the courage to take risks for future growth.

They are values to be passed on from generation to generation. We must ensure that our small businesses continue to thrive and prosper, not just for their own sakes, but for all our benefits.

To help achieve this objective, Congress recognized that providing goods and services to the Federal Government would be one way to support the growth and development of small businesses. The Small Business Act contains congressional direction to use Federal acquisition policies to ensure that small business concerns receive a fair proportion of the total contracts for property and services. Despite the growth in small businesses, the overall share of small business in selling goods and services to the Federal Government does not reflect the growth of these businesses in the overall economy. This has occurred even with a number of programs that are specifically designed to help targeted small businesses sell their goods and services to the Federal Government.

The SBA oversees programs providing contracting assistance to socially and economically disadvantaged groups, more commonly called the 8(a) program, firms located in historically underutilized business zones or HUBZones, including a number of such zones who happen to be in my congressional district in Cincinnati, service disabled veterans and a women's procurement program that has yet to be implemented some 7 years after congressional enactment and 2 years after a judicial decision finding the SBA unreasonably withheld action in not implementing the program. As the committee continues its work on these programs I think it should seek legislation that meets the noble objectives of the various SBA contracting programs while reducing the friction that exists among these various groups of small businesses.

In addition, the committee should ensure that these programs operate in the most cost effective manner possible. We have excellent witnesses here today to provide us with insight into government contracting programs authorized by the Small Business Act as amended. I look forward to their testimony and any ideas they may have concerning the objectives that I just laid out. And again, I want to thank Chairwoman Velázquez for holding this important hearing and look forward to working with her on necessary improvements to the contracting programs overseen by the SBA. And I yield back the balance of my time.

Chairwoman VELÁZQUEZ. Thank you. Now I welcome Ms. Jovita Carranza. Ms. Carranza is the deputy administrator for the United States Small Business Administration. Ms. Carranza was confirmed in December of last year. Welcome.

STATEMENT OF JOVITA CARRANZA, DEPUTY ADMINISTRATOR, SMALL BUSINESS ADMINISTRATION

Ms. CARRANZA. Thank you. Glad to be here. Good morning. Chairwoman Velázquez, Ranking Member Chabot, and members of the committee, I am Jovita Carranza, Deputy Administrator of the SBA. I appreciate the opportunity to testify today regarding the operations and successes of SBA's procurement program and to discuss our continued efforts to make progress in terms of increasing opportunities for small businesses.

Progress in the area of government contracting dollars going to small businesses has been significant since fiscal year 2000. There were 30.3 billion more in small business prime contracts in fiscal year 2005 than in fiscal year 2000 supporting an estimated 235,000 jobs. However, SBA recognizes the need to improve our government contracting programs and is taking the lead, along with the Office of Management and Budget's Office of Federal Procurement Policy to carry out a number of initiatives, including working with agencies to ensure their small businesses contracting number reporting is accurate.

The integrity of the data reported is crucial to instill confidence in the Federal contracting system. Under Administrator Preston's leadership, SBA has taken a number of steps to make contracting data more accurate. Last month we published the Official Small Business Goaling Report For Fiscal Year 2006. And we also re-issued the fiscal year 2005 report based upon extensive scrubbing of data over the last year. While these reports may not be flawless, they reflect substantial improvement in the quality of small business procurement information, and we are committed to further improvements as we proceed.

The restated goaling report shows that \$77.7 billion in Federal contracts were awarded to small businesses in fiscal year 2006, up \$2.7 billion from the previous year. This equates to 22.8 percent of all Federal contract dollars for fiscal year 2006 just short of the goal of 23 percent. We are confident that these improvements have increased accuracy and accountability providing a true reflection of the opportunities provided to America's small businesses.

Although the Federal Government was not successful in meeting the procurement goals for HUBZones, women-owned businesses and veterans, the report does show that contracts with small disadvantaged businesses were up from \$21 billion in fiscal 2005 to \$23 billion in fiscal year 2006 representing 6.76 percent of total contract dollars, well above the 5 percent goal. Contract dollars for participants in the 8(a) business development program were up in fiscal year 2006 to \$12.5 billion. Contracts with women-owned small businesses increased 1.4 billion to \$11.6 billion. Meanwhile contracts with HUBZones increased more than \$1 billion to 7.2 billion.

A great example of the progress being made in this area is SBA's recent publication of the first of a twice annual small business procurement scorecard. The scorecard is a method of ensuring that Federal agencies provide the maximum possible opportunity for small businesses in the Federal marketplace. It reflects current performance. And more importantly, progress. Federal agencies are making and improving such performance. The new scorecard ensures that agencies have clear goals and action plans and are regularly assessed on their performance. This scorecard is a significant step or has taken significant steps in adding transparency to the goaling process.

In the scorecard category of meeting small business goals, seven agencies scored green, five scored yellow, and 12 were red. In the category related to progress, 12 agencies were rated in the green column, eight were yellow, and four were red. SBA is working with all agencies to improve these scores going forward. The administra-

tion continues to give agencies the encouragement to meet small business goals and give them credit for this progress. Each scorecard will be tailored to the individual procurement characteristics of the agency and SBA will work with each agency to establish its milestones while addressing their unique procurement requirements and challenges.

Each agency will be measured against its own achievements in identifying small business opportunities. I would like to take just a moment to let the committee know that SBA is in the process of implementing its new size recertification rules. This new regulation requires small businesses to re-certify their size status on long-term contracts at the end of the first 5 years of a contract and thereafter whenever a contract option is exercised. In addition, recertification is required for short term contracts when a small business is purchased by or merged with other business.

When contractors can no longer certify their businesses as small business size status buying activities can no longer count awards to them toward their small business goals. Ultimately the new size recertification rule will ensure more accurate data and further support our efforts to help small businesses receive more prime contracts throughout the Federal Government. As we further our efforts to assist underserved markets, such as women-owned small businesses, HUBZone certified firms and service disabled and veteran-owned small businesses, we continue to be concerned and cognizant of making sure we do not set as rivals one program against another as they share the same end goal.

To this regard, SBA's fiscal year 2008 budget includes a request of \$500,000 to examine how best to serve these communities while not restricting the success of any one program. We recognize the agency can improve on the current progress in the management, as well as the effectiveness of these important programs and will use these resources to determine how to best do that. Furthermore, SBA has already committed to and is in the process of hiring additional procurement representatives with a proposal in our fiscal year 2008 request to fund five additional PCRs.

Additionally, we are very focused on back-filling any positions that become vacant in a timely fashion as we realize the importance of these individual's role. To better serve small businesses who do business with the government, SBA is redefining roles and responsibilities so that PCRs can devote more time to finding opportunities for small businesses with procuring agencies while the district offices, SBA and nonSBA resource partners, focus more time providing training and counseling to getting small businesses positioned to compete for Federal contracts.

Chairwoman Velázquez, this includes my testimony and I look forward to answering any questions you may have.

[The prepared statement of Ms Carranza may be found in the Appendix on page 49.]

Chairwoman VELÁZQUEZ. Thank you very much, Ms. Carranza, for your testimony. But I am disappointed that you know this hearing was about contracting programs, and you choose 5 minutes after your testimony to start talking about contracting programs. We needed to know what are the problems and what you intend

to do or what are you doing to fix some of the problems that those programs are facing today. Maybe you can help me through the questions that I need to ask. The study done by RAND for the women's procurement program identified five industries as under-represented when using contract dollars as an indicator. Only .005 percent of women-owned firms will benefit using this metric. If a number of contracts were used as the metric 87 percent of the industry will qualify making the majority of businesses eligible. So I would like to ask you what do you intend to use; are you going to use contracting dollars or number of contracts?

Ms.CARRANZA. Chairwoman Velázquez, in all due respect, today was to actually discuss not only the acknowledgement that you have just expressed of the data that was made available during the RAND study, or the results of the RAND study. But at this point, I am not in a position to actually take one position or the other. I mean, I am not here to indicate which role we are going to take. We have been, though, in the process since April to develop the regulation SBA had submitted, and we have taken that particular analysis, along with the RAND study data that you are referring to, and have submitted all of that information and the position of SBA to the 24 agencies that are required and allowed opportunity to comment on it.

Chairwoman VELÁZQUEZ. Are you aware that the administrator came before this committee this past February and that I asked when the program will be up and running and what his answer was to my question.

Ms.CARRANZA. Yes, Chairwoman Velázquez. I believe you also asked the same question during my hearing as to when were we going to make progress.

Chairwoman VELÁZQUEZ. Not progress. Up and running.

Ms.CARRANZA. Up and running. However, at the time that I indicated that I expected quick recovery results on the RAND study, I soon learned that it was a very onerous process where it requires not only receiving the results of the RAND report, but also sharing that information with the particular agencies for their commentary. Because we cannot, as I'm sure you are cognizant, and I am learning, cannot work in a vacuum. We have to obligate the other agencies to have participation in it, and that is what is gaining traction as we speak.

Chairwoman VELÁZQUEZ. But the administrator came to this committee and informed us that he will have this program up and running, up and running by the end of the summer.

Ms.CARRANZA. What we learned in the process, Chairwoman Velázquez, once again, is that our expectations were that. What we are very pleased to report to you, not that we have a result of the study, but that the results—not only that we have a result of the study, but it is now in play. It has gained traction, it is out in the agencies for review.

Chairwoman VELÁZQUEZ. I would strongly suggest an advice that when you come before this committee, you better tell us we don't know, but don't make promises that you cannot keep. This is 7 years after this legislation was enacted. And you are doing everything between SBA and OMB to stall the process. This is the message that you are sending to women business owners in our coun-

try; we are not interested in doing business with you. That is the message that the Administrator on the SBA is sending to the women business owners in this Nation. My next question. When the administrator—in the past when we have raised the issue of increasing the net worth for the 8(a) program, we have run into criticism. People have generally said that they are concerned about creating rich minorities.

However, if Bill Gates or Warren Buffett owned a \$1 million home in Park City, Utah, they will qualify for the HUBZone program. Why is this right?

Ms.CARRANZA. We have received an IG assessment of the HUBZone and the 8(a), I am going to say HUBZone 8(a) because they interact programs. And I assure you that we are just as knowledgeable of the gaps and the deficiencies and vulnerabilities of each program Chairwoman Velázquez. And between the administrator and the team that we have assembled and the resources that we have allocated to look at this completely and further, we are going to clamp down on three components; the oversight, the broad definition of the program and also a different focus as far as accountability. Because we have data—

ChairwomanVELÁZQUEZ. Okay. Let me ask you a specific question. Do you think that the HUBZone program has flaws?

Ms.CARRANZA. Yes. We have recognized the flaws, we have actually taken the position where we are going to implement, if not 90 percent, approximately 100 percent.

ChairwomanVELÁZQUEZ. When did you recognize that the HUBZone program has flaws?

Ms.CARRANZA. Well, I have been in the Agency about 5 months or so, and 8 months really engaged in the programs. Actually, 8 months in the Agency and 5 months really engaged in the programs. The Administrator and I have been very focused in all of the program, not only the process reengineering, the integrities of the program, and I will—

ChairwomanVELÁZQUEZ. Do you intend to propose anything to rectify the flaws of the HUBZone program?

Ms.CARRANZA. Yes. Once again I will review that, reiterate, emphasize that the recommendations of the IG team has positioned for us to recognize and acknowledge, and that we have already positioned to put in place.

ChairwomanVELÁZQUEZ. Do you, right now, have any internal control to deal with the flaws of the HUBZone program so that there is not fraud and abuse?

Ms.CARRANZA. We are cognizant and fully aware of those vulnerabilities, and we are addressing them.

ChairwomanVELÁZQUEZ. How?

Ms.CARRANZA. We have automation, we have resources tracking that, we are reengineering the process, we have actually allocated the \$500,000 to contract—

ChairwomanVELÁZQUEZ. You will qualify that as internal controls.

Ms.CARRANZA. The development of internal controls, much more sophisticated, much more focused and much more simplified, so that we can execute them immediately, Chairwoman Velázquez.

Chairwoman VELÁZQUEZ. As the ranking member said here, we are about having programs in place that are cost effective. And how are you preventing abuse and fraud from being committed in terms of the HUBZone program right after there is an investigation and a report by the inspector general?

Ms. CARRANZA. I will reiterate, working with the IG closely, who has closely assessed the program, made recommendations and immediate execution of those recommendations.

Chairwoman VELÁZQUEZ. So let me ask you, of the 14,200 companies that are in the program, how many examinations are conducted every year?

Ms. CARRANZA. We have a goal of 5 percent—

Chairwoman VELÁZQUEZ. No, no, no. I am not asking a goal. I am asking you how many examinations are you conducting every year?

Ms. CARRANZA. I can't give you the exact number, but I will tell you that—

Chairwoman VELÁZQUEZ. So I guess that the next time I need to bring the Administrator here so that he can be able to answer questions.

Ms. CARRANZA. I could get back to the staff to make sure that I have that exact number. But the reviews are being conducted Chairwoman Velázquez. Also, recognizing that as we conduct those reviews, the decertification of HUBZone is at a high number.

Chairwoman VELÁZQUEZ. Let me ask a question to you so that maybe you realize that, yes, there is not only flaws in the program and how it is being used and abused, but also that it requires immediate action. There are now more than 14,200 companies in the program with 500 program examinations each year and 2,000 companies approved. How can the Agency keep up with that? Does it make sense to have additional on-site reviews?

Ms. CARRANZA. Which we are recognizing and putting in play, not only through automation, but also through the advisory council for procurement, advisory council. There is 24 agencies that we are bringing this concern to them as well. Identifying the particular controls that we have agreed as a result of the IG audit.

Chairwoman VELÁZQUEZ. You say automation. My question is on-site reviews.

Ms. CARRANZA. On-site reviews in the headquarters office, yes.

Chairwoman VELÁZQUEZ. No. I want for you to send your people, and this is all those companies that are established in HUBZone, so that you determine if it is a valuable and lawful company and not shared with a telephone company and one person.

Ms. CARRANZA. Chairwoman Velázquez, I share your frustration in this area.

Chairwoman VELÁZQUEZ. All I need to know is are you prepared to have on-site reviews given the extent of what the inspector general found?

Ms. CARRANZA. Yes. And with that on-site audit, we have to recognize the fact that it will require additional resources. Because the resources we have now, Chairwoman Velázquez, are processing the audits that you just referred to. The business of HUBZone companies that we have, once again when we perform the certification evaluations, we recognize that 81 percent of those companies or

firms are decertified, which says that maybe the frequency of those particular reviews has to be accelerated.

Chairwoman VELÁZQUEZ. Yes. I want to move to my next question. The SBA's 8(a) program has a personal network limitation of 250,000 for small business owners that has been the same since 1988. Things have changed since 1988. Then a gallon of gas was \$0.91. Now it is \$2.79. The average price of a new home was \$91,600. Now it is \$300,100. A 1998 Ford F-150 truck was around \$13,000. In 2000, it is at least \$30,000. So my question is, can I get a commitment from you today that the Agency will start the process to raise the limitation within the next 30 days since the net worth limitation of the 8(a) program can be changed to a rule making?

Ms. CARRANZA. I will share with you, Chairwoman Velázquez, that the administration is looking at revamping the 8(a) in three areas. One recognizing exactly what you indicated that in the past 30 years, the threshold has not—the net worth threshold has not been revisited, and legislation is being proposed to raise that particular threshold. So I acknowledge your concern, and I also heard you loud and clear about 30 days. I am not in a position to commit to 30 days, but I will tell you that there is legislation to revisit that threshold.

Chairwoman VELÁZQUEZ. Legislation?

Ms. CARRANZA. Legislation being proposed, it is being proposed, I am sorry.

Chairwoman VELÁZQUEZ. Now I recognize the ranking member.

Mr. CHABOT. Thank you, Madam Chair. Good morning. First I am curious about your compensation. Do you have to get combat pay or anything when you come over to this committee?

Ms. CARRANZA. No. Actually, UPS kind of prepared me for that after 30 years there, but I welcome the inquiries.

Mr. CHABOT. Thank you. I guess my second question I guess, the Chair mentioned first of all that the OMB and the SBA are sending out a message that neither is necessarily interested in contracting with women-owned businesses. I don't think you really had an opportunity to fully answer that comment. Would you like to do so now.

Ms. CARRANZA. Yes. The process that is required to keep the integrity of the proposal and the positioning, because of the fact that this is not only disparity study, but it is also the first Federal gender-based proposal. And with that we are actually just processing all the due diligence that is required. When we initially indicated that would be resolved, the intent was to resolve it as quickly as possible because of the chronology of that particular study. And I am confident that based on the progress we are making, we will bring that to fruition.

Chairwoman VELÁZQUEZ. Will the gentleman yield?

Mr. CHABOT. I will be happy to yield.

Chairwoman VELÁZQUEZ. Seven years, a lot of due diligence, you have given new meaning to it. Thank you, sir.

Mr. CHABOT. In your testimony, you note that the government is not meeting its goals for the targeted programs that are the subject of this hearing, at least some of them. Would you again expound

somewhat on what actions the SBA is taking to ensure that agencies meet these goals.

Ms.CARRANZA. If you will allow me, Congressman, I would like to display the scorecard.

Mr.CHABOT. Sure. Could you tilt that just a little bit so that perhaps the people who have taken the time to come here can also see it. It is so small I don't think the members can probably see the numbers anyway necessarily.

Ms.CARRANZA. What the scorecard has done for us is actually put the performance of 24 agencies in a particular accountability framework. One that it gives us total transparency to the performance. Also the understanding and appreciation of the goaling process that we have used. With this most recent exercise of putting all of the data, cleansing the data, as well as applying the data to ranking and evaluating the 24 agencies in the particular program, it has revealed opportunities to us as a procurement advisory council that we should go back and look at how the goaling has actually been established.

So as a result of that, knowing that there are some areas that need to be revisited, we have developed a steering goaling committee within the procurement advisory council to ensure a couple of things; data integrity every year, best practices as it relates to how some agencies have been able to achieve a green status, those that are in the bottom list, the red. We need to look at how much more effectively and aggressively we can partner with those particular agencies.

I should share with you that as a result of revealing this performance, which is not favorable for some agencies, much more promises for others, however still requiring revisiting of the particular goaling strategy, is that we have had a lot of calls from the agencies where we are looking at developing some partnerships with the VA, with DOD and GSA. The executive level of those particular agencies have visited already our office.

And we are forming a strategy on how we can move forward to make significant gains because we are not pleased with the results, this is not a finished product and there is work to be done. So again, it is one of simplifying the process, but much more effectively applying the goaling concepts.

Mr.CHABOT. Thank you. I notice you have a couple more charts there. I don't know if those would shed any light on the purposes for this hearing that would be of any help or not. I don't know if those are yours there.

Ms.CARRANZA. Yes. As a matter of fact, I should take you to the next level and that is the procurement. We have a community within the agency of procurement contracting resources. Now, we always delve into the number of PCRs from 53 current to what we are going to be putting in place by 2008, which will bring us at a ceiling of 66. But we have also recognized under roles and responsibilities our focus has been where we have only required them to work with the agencies. And what we are going to do is also incorporate, because it has been the committee's urging that we should access our resource partners SBDC, as well as the field offices from the bottom up.

So what we are doing is taking about 340 what we call business development specialists and realigning their responsibility so it is not totally focused on 8(a), we call it annual reviews. But a portion of their day is now going to be business development. And we will leave the procurement personnel, the PCRs, to work with the agencies on-site.

As a matter of fact I attended a base myself at a transitional assistance program to get a feel for how SBDCs score and our field people interact to reinforce not only contracting opportunities but technical assistance. And with that we have identified, we have mapped out where the PCRs are located. We have also identified where the government goods and services are actually sold. And with the SBDCs, the district offices, as well as the PCRs, I think we can service quite adequately those needs to penetrate the government contracting.

Now, there is other chart which is the one behind that. You will see that—and the recent one is actually allocating where the new PCRs are going to be assigned. And then this one is the top 100 buying activities. So what does that say? We are analyzing it, we are looking at resource optimization and we are also taking to heed what the committee has always urged us to do, is optimize the resources that we have in play and do more with other agencies partnering with the 24 other government agencies.

Mr.CHABOT. Thank you, Deputy Administrator Carranza. And in order to give other members the opportunity to ask questions, I yield back my time.

ChairwomanVELÁZQUEZ. Mr. Ellsworth.

Mr.ELLSWORTH. Thank you, Madam Chair. Thank you, Ms. Carranza for being here today. Going back to your testimony on page 1, it talks about Administrator Preston's leadership. SBA has taken a number of steps recently to make contract data more transparent and accurate. Can you just give me a quick what some of those things, how recently they have done that and what some of those steps are to make it more transparent?

Ms.CARRANZA. When the Administrator began working, and I will give you an example, with the scorecard, when the Administrator began working with Paul Dennett and jointly pushed forward the agenda of transparency accountability, it was an unprecedented act to have two administrators pursue framing our performance of agencies and gaining the support from OFPP, engaging GSA to make sure that they were responsive to the data needs that we had on the recertification, as well as just the data cleansing for 2004, 2005—I should say 2005, 2006 and then protecting 2007.

So the rules of engagement have been expanded. We also have a focus on compliance. And compliance means you have to reveal how out of compliance you are. And once we have identified those gaps, we now track the exposure and we apply resources to it. And on a weekly basis, we have metrics that tell us where we stand in each one of those programs, whether it is our outreach project planners, our MOU status with other agencies, as well as sending out strong messages, not only internally, this is inter-agency, intra-agencies, and we have stakeholders sitting behind us where we have attended summits, conferences, trade association meetings, town hall meetings, to project the message that we have of hold us

accountable for what the committee has been urging and challenging us with. I think we are on the same page.

Chairwoman VELÁZQUEZ. Will the gentleman yield for a second?

Mr. ELLSWORTH. Yes, ma'am.

Chairwoman VELÁZQUEZ. Ms. Carranza, I am so happy to see the type of partnership, historic partnership between SBA and OMB regarding the collection of data and transparency process so that we guarantee that you have the most accurate data reporting coming from all the Federal agencies. But does that action correspond with the fact of the committee's report regarding \$12 billion, contracting dollars, going to large businesses that were intended to go to small businesses.

Ms. CARRANZA. That is a start of discovery as it relates to once we started cleansing the data, Congresswoman Velázquez. There are other areas that we need to continue looking. One, work aggressively with the procurement advisory council to not only, should we say, urge them to ensure that the data input is accurate. Secondly, we are in the process of looking at anomaly reports. And we are working through that to ensure that any discrepancy of a large business on there, we can justify it and expose it on the Web site. So we are working through that, another level of oversight and transparency.

Chairwoman VELÁZQUEZ. I yield back.

Mr. ELLSWORTH. Thank you. Ms. Carranza did you come straight from UPS to your position now?

Ms. CARRANZA. Yes, I did.

Mr. ELLSWORTH. Then I am sure that after coming from a very efficient company like that, that the Federal Government frustrates you. I have been in Federal Government about the same amount of months you have and I find that it is not as efficient as private companies like UPS. I saw on page 3 of your testimony that the SBA requested \$500,000 to examine how best to serve the 8(a) HUBZone and small SDAC. In your past experience, isn't that what you and the other administrators, they are supposed to be the ones that are deciding, that is why they brought you on, with the expertise. Can you tell me what the \$500,000—that is not a consultant from outside when they have experts like you and others to examine that, and I hope that is not coffee and donuts or we need to check the prices of that too. So can you kind of go into that a little bit?

Ms. CARRANZA. Absolutely. What we have identified in the Agency is that project analysts, systems analysts, because we are going through process redesign on a lot of the programs, we are proposing electronic applications in about four of our programs from ODA disaster recovery, to improving the HUBZone accessibility, as well as electronic application for, improving the electronic application for the 8(a) certification. There is a great need for streamlining our processes. We have identified the skill-set gaps. And we can train.

But time is not on our side. The needs and the demands of the constituency are great. The need to restructure and upgrade, enhance all of our programs needs to be accelerated. So to expedite that we have what we call rapid results, it is people that are very specialized in trying to get 30, 60, 90-day implementation. So the

methodology of UPS is not that we have 24 months to get a job done. The urging by this committee is when are we going to get it done. And it is holding us accountable. So that is the backdrop. That is the reinforcement that the Administrator and I have asked. They have mapped out every program that we are responsible for. And we have revealed opportunities in service, cost and resource allocation. I think it is money well spent. Thank you for the question.

Mr. ELLSWORTH. Thank you very much.

Chairwoman VELÁZQUEZ. Mr. Bartlett.

Mr. BARTLETT. Thank you very much. I apologize for being late. I am on the Armed Services Committee also and we had a classified hearing on how we inadvertently transferred six live nuclear weapons from Minot Air Force Base to Bardsdale Air Force Base. I am sure you have seen the references to that in the public press. But I am very pleased to be here. More than half of all the employees in our country work for small businesses. And far more than half of all of the innovation in our country comes from small businesses. That is because large organizations, whether they are government or big businesses tend to be stifling. So our government agencies, and I am more familiar with the intelligence and defense community, where the lion's share of all our contracting dollars are spent.

Those two cultures are really cognizant of the value small business involvement because they recognize that most of the new creativity innovation is going to come from small business. But the red tape in dealing with government is so intimidating that many small businesses are just turned off. What we have done very successfully is to hold now for several years procurement conferences where we have the government people there. And they come outside the gate at Fort Detrick because you are intimidated just going through that security to get inside to the procurement office. So they come outside the gate. We have had more than 500 attendees at this. And always, the Small Business Administration is always there, thank you very much for your participation.

We have actually had the reverse of that where the government contractors come and listen to the ideas that our small business people have. Because you can't ask what you don't know exist. And so these cultures, defense and intelligence, need to know what is out there that they don't know about. So I want to thank the Small Business Administration for your participation in those conferences. We have been trying to help move the small business activity in our government contracting along with another way too. Bundling is both good and bad. And the first bundling that came to our attention was when DOD decided to bundle all of their moving.

Now, it is obvious that one mover can't move everybody in the whole world for DOD. And what we had previously done was to compete that. And one company won and they could move all that they could move. And anybody else could move at the same rates that were negotiated with that company. So this was a great win-win situation. Most of the movers are mom-and-pop shops. And so our small business community was really, really concerned when this was bundled. And so we worked with DOD to make sure that

the prime who got this was going to in fact have a lot of small sub-contractors working for him. The second bundling was a really interesting one, and that is one that I supported. And that was the Navy and Marine Corps were bundling their procurement of information technology equipment.

Our bureaucracy in the government prohibits us from rapidly buying things. If it takes you 14 months to buy something and 15 months is the life stock of what you have bought, you have got one month of useful life in it after you bought it. And so we sympathized with their need to be able to procure very rapidly. And they could do that by bundling this.

And so we asked them to come in because small business was concerned they were going to be cut out. And to the great credit of the Navy and Marine Corps, they withdrew their RFP and they issued another one which said that 35 percent of all of the money was going to go to small business and 10 percent of that was going to be direct pay. And the next bundling was the big ground breaker program at NSA, and they had the same problem; you got to buy this new equipment and with the government procurement cycles it takes too long to buy it. So they were bundling. We went to talk to them and they said, oh, gee, you know, we are so big and spread out that we can't really commit to that. We reminded them that the Marine Corps and the Navy were more spread out than they were. And so they now are committing to 35 percent of all of their subcontracting will be with small business. We have a long way to go in some of the programs. And in a few minutes, Mr. Newlan will testify relative to the HUBZone program, which is a relatively new program which has had enormous benefits to the district that I have the honor of representing. And most of our government agencies are falling woefully short of meeting those goals.

We will have more time to talk about that with his testimony. We have got a long way to go. And what we need to do is to partner at all levels. In the business community, our government agencies that are procuring and Small Business Administration is working with them to make sure that they adhere to the—this is not really a law, these are goals and they are failing to meet those goals. And the shame is that their failure is meet those goals is they are denying the taxpayer the benefits that would accrue to these agencies if they were able to have more contracting with small business, because that is where the creativity and the interest is. So I want to thank you very much for what you are doing to help move this along.

Chairwoman VELÁZQUEZ. The time is expired. Mr. Braley.

Mr. BRALEY. Thank you Madam Chairwoman. I am pleased to see that on Thursday, Administrator Preston is scheduled to be appearing before the committee, because I think it would be good for someone to ask him why he should not be held in contempt of Congress for failing to deliver on his promise that this women's procurement program would be implemented by the end of the summer. Because the summer is starting to end here in Washington, D.C. And at the rate we are going, this women's procurement study program will make the Capitol Visitors Center seem like it is on a fast track towards completion.

And I would ask you, Ms. Carranza, who do you think should be held accountable for the failure of the administration to complete that program after more than 7 years when it was directed to do so by Congress?

Ms.CARRANZA. Congressman, I can tell you who the public holds responsible for that. Every time I attend a women's summit or I attend a WHIP function or a Chamber of Commerce where 60 percent of the attendees are women, the question they ask me is where do we stand and when will we see it? So in addition to being here and addressing your question, I also, as well as the Administrator, deal with the consequences of having to explain the process when we are in general public.

Mr.BRALEY. But there is no accountability. What has happened to change the status quo? When you worked at UPS, can you fathom the CEO of UPS tasking an individual with the responsibility for a major review of the failing program and accepting year after year after year for 7 years no results.

Ms.CARRANZA. I can speak Congressman that when I arrived here, there was \$500,000 allocated by this administrator to implement the RAND study. As a result of that, for the past 5 months each month there has been progress in the roll-out in addition to the anticipation that you and I would not have to talk about this again based on the progress that is being made this year. I can't answer for the previous 7 years, and I can't get into the technical aspects of what occurred in the past years, but I can answer, and you can hold me accountable for the process that is in place today.

Mr.BRALEY. Well, everyone in this room knows that if this happened at UPS, the person tasked with that responsibility would be gone, fired. That is what happens in the private sector. We all know that. And one of the things that concerns me is that we have people come here in front of this committee time and time again making apologies for the conduct of someone who preceded them in their position without accepting responsibility for getting it done. That is what we expect, that is what the American people expect.

Now, you have brought some very nice charts with you here today, and I would like to talk to you about some of them. Let's start with the first chart, which is this scorecard. And when you were asked by the committee chairwoman about this, your comment was that you were not happy with these results. Do you remember that?

Ms.CARRANZA. Correct.

Mr.BRALEY. Now, I understand the red to mean that is a failing grade, right?

Ms.CARRANZA. Yes.

Mr.BRALEY. Yellow means somewhere in between making progress and not making progress.

Ms.CARRANZA. Yes. 4 out of 5. We look at how many of the programs they have made, not only progress, but have hit their targets. The only way that you can get green is you can make all your targets. And you hit your goal and you have shown significant progress.

Mr.BRALEY. So this column that says current status color, to me as a member of the committee, suggests that is the current status that each of these agencies is at in reaching those targets?

Ms.CARRANZA. Correct.

Mr.BRALEY. And so the way I read this report card, currently over half of these Federal agencies are getting a failing grade.

Ms.CARRANZA. Correct.

Mr.BRALEY. So what does this progress status color mean? What does that suggest to us, this column?

Ms.CARRANZA. Well, that they are showing progress. They may not have hit their target, but they have all the right mechanisms in place; they just missed the mark. Now, that gives us a window of opportunity to say you have to intensify it, you have the right program in place or the right initiative in place, but what more can we do so that you can make the necessary gains.

Mr.BRALEY. But given your earlier example of this women's procurement program, they have had a process in place to complete that study so they could be given a green score even though it has not been completed in 7 years.

Ms.CARRANZA. And to that point, what I am encouraged about Congressman, in this particular stage of the women's procurement or women's small business gains is that we are not waiting for the RAND study to keep us focused on what is necessary to address the underserved. We developed outreach programs that addresses both socially economic disadvantage and also with focus on the women's procurement and/or small business goals.

Mr.BRALEY. Okay. Well, let us move on to the discussion about the PCR locations. You don't have any PCRs located in the State of Iowa, you would agree with that?

Ms.CARRANZA. That's correct.

Mr.BRALEY. There are none that are scheduled to be included there?

Ms.CARRANZA. No.

Mr.BRALEY. And there are no plans to put one there in the future?

Ms.CARRANZA. At this given time.

Mr.ELLSWORTH. [Presiding.] The time is up.

Mr.CHABOT. Mr. Chairman, I would ask to speak out of order for just a second.

Chairwoman VELÁZQUEZ. Without objection.

Mr.CHABOT. Thank you. I think the gentleman was obviously excellent in the courtroom, I think is excellent in this committee and I would just note that I agree with the gentleman's point about the relevant efficiencies of the private sector versus the government. And I would invite the gentleman, if he can identify any of the areas of the government that we could put more in the private sector and privatize, I would be willing to join him in that effort, both in the small business and a whole range of other governmental agencies as well, because I think you make a good point. And that is that, in general, the private sector seems to be more efficient than the government, and we ought to therefore have less government and ought to rely more upon the private sector in individual responsibilities, et cetera. Thank you very much for making that point.

Ms.CARRANZA. Congressman Chabot, may I speak?

Mr.ELLSWORTH. If it is brief.

Ms.CARRANZA. Very brief. I just wanted to acknowledge Congressman that we have identified those areas that do not have dedicated PCRs. And that is why we are galvanizing our resources, so that if there is a need of a contracting entity they have access to technical assistance and support. So we will see to that.

Mr.BRALEY. Mr. Chair, if I might, since the witness has made a response to a concern I raised, I would like a chance to respond to her comment briefly.

Mr.ELLSWORTH. This will be the last response back and forth. We will move to the second panel.

Mr.BRALEY. Every witness who has appeared before this committee on the subject of PCRs I have asked whether they had plans to put one in the State of Iowa which has never had one and ranks 48 percent in the percentage of Federal contract dollars. And if you look at these underserved areas, it is obvious to me that the administration's plan to implement new PCRs is not going to address some of these states that are getting a very small share of Federal contract dollars, and that was a concern that I was raising.

Mr.ELLSWORTH. Thank you very much. In all the excitement I overlooked Ms. Clarke, so I will recognize Ms. Clarke for her questions.

Ms.CLARKE. Thank you very much and to our Chair in absentia, our ranking member. This is a very important hearing. We can see by the tenor of the discussion here how critical it is. And I would like to first of all associate myself with the remarks of my colleague from Iowa and to say to our ranking member that there is a place for the private sector and there is a place for government.

When we appoint individuals to our government agencies, particularly one with this domain, we expect the utmost in professionalism and integrity in the work that we do. I don't believe that we have to supplant that intellect, that talent and that skill in our government in order to make sure that it works. I think that is what the people of the United States require of us and request of us, and that is part of what our conversation is here today.

But I would like to say that my good friend Congressman Braley introduced the Small Business Fairness and Contracting Act so the small businesses from Brooklyn, Iowa to Brooklyn, New York would have a better chance to compete for Federal contracts. While overall contract spending has grown to more than 425 billion, up from 388 billion last year, the percentage of awards to small businesses has continued to decline. We can't reconcile this. And I think again the points that have been raised by Congressman Braley really hits the nail on the head with respect to our expectations and the fact that we are not meeting them, we are not meeting them. We have to say that forthrightly in order for us to get on track and get to the business at hand, which is to meet these marks for the small businesses that will be the employers of the people of our constituencies. That is why it is such an urgent matter.

The concentration of contracts in the 8(a) program is severe. In 1999 the top 10 companies received 13 percent of the dollars. In 2005 the top 10 companies received more than 40 percent. Are you aware of this problem?

Ms.CARRANZA. Yes. Are you referring, Congresswoman, to the 8(a) or government contract?

Ms.CLARKE. The 8(a).

Ms.CARRANZA. Yes, we are cognizant of the fact that there are about 9,000 firms in our portfolio and the tendency has been that a portion of those firms are utilized more often than others. And the acknowledgment that once you hit a success rate with a firm obviously, Congresswoman, they are going to keep going back to that firm. It does not make it right, we have addressed it. We have been acknowledged to the fact that there is a vulnerability there and it is up to the agency as well as the 24 other agencies to recognize that, and we are going to bring that to a test.

Remember earlier I said we need to clamp down on the administrators about oversight, about accountability. It is about definition of each of these programs. It is program integrity and focus.

Ms.CLARKE. But with all due respect, Madam Deputy, the agencies are not charged with developing 8(a) companies. That is the SBA's responsibility in statute. Why is the SBA side-stepping its obligations here?

Ms.CARRANZA. Congresswoman, I cannot agree that we are side-stepping. Could we have missed the mark as it relates to ensuring that we had everyone engaged in the oversight and assessment—

Ms.CLARKE. But if you are mandated by statute, it would seem to me that that would be foremost in the mind of anyone who is presiding over the program. And so it is semantics to say we are not side-stepping when indeed the results demonstrate that.

Ms.CARRANZA. The integrity of the program is of utmost importance to the agency. Side-stepping, I could not accept that term. Could I say that we have missed the mark as it relates—not intentional, but because of the focus and/or execution of the program, I can share with you the same frustration and also the same focus. And I look forward to working with your particular staff to address those particular issues and perhaps collectively we can work to a resolve.

Ms.CLARKE. Madam Deputy, are you aware that in 2005 93 percent of the companies got nothing?

Ms.CARRANZA. In 2005?

Ms.CLARKE. Um-hum.

Ms.CARRANZA. I am not in a position to answer that.

Ms.CLARKE. Well, I think that should be something that you really focus on.

I have run out of time. I want to thank you, Mr. Chair.

Ms.CARRANZA. Thank you very much.

Mr.ELLSWORTH. Thank you. This will conclude the first panel.

Ms. Carranza, I would like to thank you for your testimony. I appreciate you coming before this group this morning. I am sure we will run into you again down the road.

Ms.CARRANZA. I am sure, thank you very much, I appreciate it.

Mr.ELLSWORTH. We invite the second panel to come forward. I would like to advise the Committee and the panel members as we switch that we have been notified that there is a possibility we will be interrupted for votes some time during this part, and hopefully Ms. Velázquez will be back and will determine how to handle that at the time.

Mr.CHABOT. Mr. Chairman, I would ask once again that while the panel is coming in to speak out of order for just a moment just to make a point. This will take me about 60 seconds.

Mr.ELLSWORTH. Without objection.

Mr.CHABOT. I happened to be at a meeting this morning and the speaker was former Speaker Newt Gingrich, in comparing the private sector versus the government and how efficiently both operate. He used an example of—I do not recall if it is Federal Express or UPS versus the government, and he said whichever one it was, UPS or Federal Express has at any one time about 25 million packages that are going around the world, you can literally go on-line and know in real-time where your package is in that process. That is the private sector. The Federal Government, we have 11 to 12 million people here illegally, the government has no idea where they are at. Sort of difference between the private sector and the government. And then he also mentioned that somebody suggested that perhaps we could mail a package from Federal Express or UPS to illegal folks here in this country and we could figure out pretty quickly where they are at. But in any event that was Newt's suggestion.

I yield back.

Mr.ELLSWORTH. We will start hiring people away from those great companies to work for the government. I agree that we should do a better job.

If it please the panel, I will introduce you one at a time. We will hear the testimony in that order. Just be advised we do try to keep it strict to the 5-minute rule. If your testimony or your paper, your written testimony, is longer than that, it will be submitted for the record.

With that, if everybody is in place Panel II consists of Mr. Harry Alford. Mr. Alford is the President of the National Black Chamber of Commerce. The Chamber represents nearly 100,000 companies through a network of nearly 200 chapters. With that, Mr. Alford we would appreciate your testimony.

STATEMENT OF HARRY ALFORD, PRESIDENT, NATIONAL BLACK CHAMBER OF COMMERCE

Mr.ALFORD. Thank you, Mr. Chairman, acting chairman. Distinguished members of the Committee, thank you for giving the National Black Chamber of Commerce the opportunity to speak about the contracting programs of the Small Business Administration. We will submit a full testimony within the subsequent 5-day time span, but for now I want to voice a few important views about the current status of the SBA and how it impacts our membership.

The National Black Chamber of Commerce is a nonprofit 501(c)(3) organization that is dedicated to the economic development of African American communities through entrepreneurship and capitalistic activities. We have over 130 chapters located in 41 States and various chapters in eight nations. We have reach to over 100,000 black owned firms and consider ourselves the largest business association representing black owned firms.

Back in 1996 the Deputy Administrator of the SBA told my Board of Directors that the SBA was no longer going to concentrate on procurement and become simply a lending guarantee institution.

We protested her attitude and demanded and eventually received her resignation. As time went by, it appears that her forecast has slowly taken form. It was in the late 1990s that the SDB contractors with the Federal Government was dropping at the rate of a billion dollars per year. In the early 2000's it started to take a miraculous turn upwards. However, that appears to be due to misrepresentation, fraudulent reporting and a skyrocketing increase in Alaska native corporation activity. Minority businesses in the lower 48 States have been decimated in direct government contracting and subcontracting.

As a current example, the SDB contract participation in the gulf rebuilding seems to be approaching, in terms of black business participation, at \$400 million. Contracts affected by the National Black Chamber of Commerce in southeast Louisiana is approaching a billion dollars. I never would have thought that our fledgling organization could effect more contracts for black business owners than the Federal Government, but that is indeed the case.

Now if you take that \$400 million that they have alleged with black businesses, most of that has come from the tirade, if I may say, of the Honorable Bennie Thompson when we submitted a report to him that FEMA and others were at 0.02 percent in black business participation in the gulf. He hit the ceiling and FEMA jumped. And all of a sudden we had \$400 million in forecasted dollars. We will audit this later and see if that comes true.

We at the National Black Chamber of Commerce are so fed up and disgruntled with the SBA lack thereof, district directors, PCRs, business opportunity specialists, PTACs. Where are they? They are gone. They are more than endangered, they are gone. Los Angeles, Kansas City, Chicago, Brooklyn, Cleveland, they are not around. Some of my chapters have not seen an SBA individual in 7 to 8 years, not since the beginning of this century.

So what are we doing? We are encouraging our members to follow the Federal dollars through State agencies. U.S. DOT, the billions that they give to the State Department of Transportation officers. Follow the HUD money. Most of the money in southeast Louisiana that we proclaim is HUD money, Housing Authority of New Orleans, who has \$1.6 billion in RFPs. Two of our members have 50 percent of that, and the other two RFP winners are committing to working with the local minority business community.

DOT, we have a model location in Illinois. The Illinois State Black Chamber of Commerce has put every contractor in central and downstate Illinois at full capacity through the IDOT program, to the point that the Governor has given them two contracts worth over a million dollars for technical assistance for minority contracting in the State of Illinois.

The State of Ohio legislature has just appropriated \$1.2 million to develop two more black chambers within the State of Ohio for economic development within that State. Everyone has given up out there on the SBA for developing small and minority businesses.

The point I hear about women business, they obviously have decided they are not going to do it. That is the deal. And I think that is the challenge to this Committee. What are we going to do to make them do it? We have given up.

Now, we are doing other creative things. We are working in a partnership with the Alaska native corporations. We are using their expertise for technical assistance in finding contracts with the Corps of Engineers. We have had some good examples. The only problem is the SBA is trying to stop us from doing this, which we have resisted and are turning that around.

8(a) program, we are supposed to have 45 days to have your application processed. We have got people who are taking 6, 7, 8 months trying to get an 8(a) application processed. I have had one guy who waited 7 months and he was told, a native of New Orleans was told, a survivor of Katrina was told he is not economically disadvantaged. He lost all his business in the storm, he was born in the inner city of New Orleans, and they are telling him he's not socially disadvantaged. I think it is absurd.

At the same time you have 8(a) males in the greater D.C. Area where these white males are out recruiting some of our members asking them to sign up for the 8(a) program through them. They can get them in 2 to 3 weeks guaranteed because they have connections with the SBA. Then when they get approved as an 8(a) business they assign them a new address somewhere in D.C. To be a HUBZone in addition to 8(a).

Then they have what is known as a handshake agreement, which says they are deviating from the application from the 8(a) program and assigning them project managers doing the bidding, doing the project work, and all they have to do is just sign paperwork and checks. This is fraud. And if I can see it, I am the last person they want to know about this. It seems like the SBA might want to pick up a phone, talk to us and we can take them to the door.

That is my time. I will answer your questions, sir.

[The prepared statement of Mr. Alford may be found in the Appendix on page 53.]

Mr. ELLSWORTH. Thank you, Mr. Alford. I'm sure we will give you a chance with some questions.

Next, Mr. Chamrin is the Assistant Director of Economic Commission for the American Legion. The American Legion was established in 1919, has 3 million members and nearly 15,000 posts worldwide.

Mr. Chamrin, we welcome your testimony.

**STATEMENT OF RONALD F. CHAMRIN, ASSISTANT DIRECTOR,
ECONOMIC COMMISSION, THE AMERICAN LEGION**

Mr. CHAMRIN. Thank you. Mr. Chairman and members of the Committee, thank you for this opportunity to present the American Legion's view on the SBA's contracting programs in relation to veterans. American Legion views small business as the backbone of the American economy. It is the driving force behind America's past economic growth and will continue to be a major factor as we move further into the 21st century.

Currently more than 9 out of every 10 businesses are small firms, which produce almost one-half of the GNP. The impact of deployment on self-employed reservists is severe with a reported 40 percent of all veteran owned businesses suffering financial losses and in some cases bankruptcies. Many small businesses have dis-

covered that they are unable to operate and suffer some form of financial loss when key employees are activated.

Additionally, the Office of Veterans Business Development within the SBA remains crippled and ineffective due to a token funding of only \$750,000 per year. This amount, which is less than the office supply budget for the entire SBA, is expected to support an entire nation of veterans entrepreneurs.

The American Legion feels that this pittance is an insult to American veteran business owners that undermines the spirit and intent of Public Law 106-50 and it continues to be a source of embarrassment for this country.

American Legion strongly supports increasing funding of the SBA's Office of Veterans Business Development to \$2 million. This will provide enhanced outreach and community based assistance to veterans and self-employed members of the Reserves and National Guard. Additionally, the American Legion supports allowing this same office to enter into contracts, grants and cooperative agreements to further its outreach goals.

The Office of Veterans Business Development must be authorized to develop a nationwide and community based service delivery system specifically for veteran and members of reserve components of the United States military.

I'll talk about the Federal procurement opportunity for veterans. The American Legion has supported legislation in the past that sought to add service connected disabled veterans to the list of specified small business categories receiving 3 percent set-asides, and Public Law 106-50 was passed in 1999. Agency compliance with Public Law 106-50 has been minimal and non-compliant. In 2004 President Bush issued Executive Order 13360 to strengthen opportunities in the Federal contracting for service disabled veteran-owned businesses.

In contrast to the SBA scorecard, if you dug a little deeper, the following agencies have failed to meet the 3 percent goal for fiscal year '06 for service disabled veteran-owned businesses. That has been established since 1999 and enhanced by the Executive order in 2004.

Agriculture, Homeland Security, Transportation, Justice, Labor, Nuclear Regulatory Commission, Treasury, Defense, Interior, Education, the EPA, GSA, HHS, NASA, State, National Science Foundation, OPM, Social Security Administration and USAID. Once again these 19 agencies did not meet the 3 percent goal. SDVOBs had the potential to award it approximately \$7 to 8 billion for fiscal year '06 and about the same for fiscal year '07.

Brief recommendations, we with like to incorporate Executive Order 13360 into SBA regulations and standard operating procedures. The American Legion agrees with the recommendations given from the SBA Advisory Committee on Veterans Business Affairs in their fiscal year '06 report. The SBA needs to reemphasize implementation of the Executive Order 13360 and establish it as a Federal procurement priority across the entire Federal sector.

Federal agencies need to be held accountable by the SBA for their implementing of Executive Order 13360 and their progress toward the 3 percent goal. The SBA needs to establish a means to monitor agencies' progress and, where appropriate, establish a ve-

hicle to report or otherwise identify those that are not in compliance and pursue ongoing follow-up.

To achieve the SDVOB procurement goal contained in the Executive order the SBA must identify all agencies affected by the Executive order and under the directive of Congress. Then the SBA should assist these agencies to develop a demonstrable, measured strategic plan and establish realistic reporting criteria.

A change of sole source contracting methods. To provide parity among special emphasis procurement programs, the SBA should take immediate appropriate steps to promulgate regulations to revise 13 CFR 125.20. The proposed revision would eliminate existing restrictions on the award of sole source contracts to SDVOBs such as the "Rule of Two". This change should mirror 13 CFR 124.508 part C which applies to the 8(a) program and states, in order to be eligible to receive a sole source contract in regards to 8(a) the firm must be in current participation on the day of the award. Accordingly, adopting this language would eliminate all restrictions on sole source awards to SDVOBs.

And finally, our final recommendation, is to develop a user friendly procurement database. The American Legion supports that the Federal Government and DOD utilize its available technology to create, fund and support a veteran procurement spending database within the DOD. Why the DOD? As Congressman Bartlett said before, they have the largest dollar amount of contracts awarded, yet have awarded only one-half of 1 percent of all the contracts to service disabled veteran-owned businesses. This action will finally put veteran-owned and service disabled veteran-owned businesses on equal footing with all small business special interest groups in regards to Federal procurement opportunities.

In conclusion, the American Legion appreciates the opportunity to present this statement for the record and to continue our proud history of advocating for veterans. I appreciate this opportunity and would be happy to answer any questions that you have.

[The prepared statement of Mr. Chamrin may be found in the Appendix on page 57.]

Mr. ELLSWORTH. Thank you, Mr. Chamrin.

Next is Margot Dorfman. Ms. Dorfman is the CEO of the U.S. Women's Chamber of Commerce based in Washington, D.C. The USWCC represents 500,000 women-owned companies throughout the country.

Ms. Dorfman, we appreciate your testimony.

STATEMENT OF MARGOT DORFMAN, CEO, U.S. WOMEN'S CHAMBER OF COMMERCE

Ms. DORFMAN. Thank you very much. I greatly appreciate the time to be here today. I am here today representing the millions of American women business owners seeking your urgent assistance.

In 2000, Congress recognized that the gross underrepresentation of women-owned businesses and Federal contracting had to end and established the set-aside program to reach women-owned businesses in underrepresented industries. Through a bipartisan effort Congress passed the Equity and Contracting for Women Act. This

act required the Small Business Administration to conduct a study to identify industries in which women-owned small businesses were underrepresented and established procedures to verify eligibility to implement the program.

Nearly 7 years later the SBA has still not implemented this important law. The U.S. Women's Chamber of Commerce filed a claim against the SBA for failure to implement this law. The court agreed with the Women's Chamber and said that the SBA had sabotaged the implementation of the program. The court demanded a timeline for implementation, which the SBA provided and then failed to meet.

Let me now address why this was so urgently needed. We read endlessly about the huge growth in women-owned businesses for marketers seeking to sell to women. One of my favorite hyped up headlines states that over the last decade women-owned businesses grew 42.3 percent, but the real story is that while the number of women-owned businesses grew by 42.3 percent, their annual revenues grew by only 4.4 percent.

One of the reasons women-owned businesses are not seeing stronger growth is for the devastating failure of the Federal Government to provide fair, competitive opportunities for women-owned firms. Without access to government contracting opportunities, women-owned businesses are struggling to get the traction they need to grow their businesses and increase their capacity. Even though women own nearly one-third of all businesses in America we received only 3.4 percent of the total 2006 Federal contracting dollars, resulting in losses of billions of dollars annually.

After 7 years the SBA is still not ready to implement the women's contracting program, and has even signaled that they plan to only implement a very, very narrow version of this law. If the SBA takes this narrow action, the intent of Congress will not be fulfilled, and women-owned businesses will not receive increased access to contracts.

The SBA has taken three steps. Step 1, in 2002 the SBA prepared a draft study containing a preliminary set of estimates. On step 2, the SBA asked the National Academy of Sciences to conduct an independent review of relevant data and estimation methods prior to finalizing the study. NAS recommended that a new study be completed, employing four data sets measuring options of contract dollars and actions as well as the whole universe of women-owned small businesses versus only those listed in CCR.

The NAS recommendation entitled Clear Cases of Underrepresentation states and I quote, "Because almost any data source and measure of disparity will be subject to errors, and because stakeholder views of appropriate disparity measures may differ according to their views on the usefulness and appropriateness of preferential contracting programs, it is unlikely that a single disparity measure will go unchallenged."

We recommend that the SBA identify industry groups for which more than one disparity measure finds underrepresentation using a disparity ratio of .80 or less. The NAS also makes it clear why it is important to look at a diverse picture of underrepresentation rather than narrowly at only one view.

The report states differences in purchasing methods caused differences between different agencies, making it important to look at both contract actions and dollar amounts. Shares and terms of dollars and actions are similar from any cabinet departments, but there are exceptions. Notably the Department of Energy in fiscal year 2003 exhibited a relatively high share of contract actions going to women-owned small businesses, 15 percent, but the share of its contract dollars awarded to women-owned small businesses was only .5 percent.

The point the NAS makes is that the SBA should not narrow the selection of industry severely, as purchasing methods and contract sizes across different agencies vary.

Step 3, using the RAND study outcomes, the SBA should now select industries that appear on more than one of the disparity measurement tables. Using the standard to determine underrepresentation, women-owned businesses are underrepresented in over 86 percent of the industries.

In summary, the NAS told the SBA how to prepare the relevant data and estimation methods. The RAND study provided the relevant data. The next step is clear, the SBA should immediately implement this program for all industries that appear on more than one of the four data sets. I call upon you today to do everything within your power to compel the SBA to implement the law as you had intended it to be done so.

Thank you.

[The prepared statement of Ms. Dorfman may be found in the Appendix on page 61.]

Mr. ELLSWORTH. Thank you, Ms. Dorfman.

Our next witness is Mr. P.J. Goel, the President of Goel Services, Incorporated here in Washington, D.C. Mr. Goel is the President of a local company in the construction industry. Goel Services, Incorporated is certified in both the 8(a) program and the HUBZone program. He is testifying on behalf of the Associated General Contractors. The AGC is the oldest organization representing the construction industry, has 33,000 members, 100 chapters throughout this country.

Mr. Goel, thank you very, very much.

**STATEMENT OF P.J. GOEL, PRESIDENT, GOEL SERVICES, INC.,
ON BEHALF OF THE ASSOCIATED GENERAL CONTRACTORS**

Mr. GOEL. Thank you very much, Acting Member Ellsworth, Ranking Member Chabot, members of the Committee of the SBA which is here, and the agency for letting me speak.

I submitted testimony, but I think after listening to what most of your concerns are I was going to try to focus in on what the problems are as a small business in these programs and what would the recommendations be to fix them.

First of all, there are six programs that the Federal Government recognizes: Alaskan Native, Tribal Indians, Service Disabled, Woman Owned, 8(a), HUBZone. It is very hard for the government contracting officials that we have met with over time to actually know all of the individual rules for each of these six programs. Five of the six programs are socio-disadvantaged programs. Everything

except for HUBZone is race based or whether you have been injured or whether you came from an area where you have been disadvantaged.

My personal recommendation as a small business outside of any organization is to consolidate them into one program. Immediately women owned could have equal parity to 8(a) and the HUBZone would run parallel. Alaskan natives, who have an unlimited cap on the amount of sole source, would be restricted by 8(a). Tribal Indians, which have an unlimited cap on sole source, would be unlimited by 8(a). Service disabled, which are seeking to have parity with 8(a), would have 8(a). Either to make all five programs similar, identical in nature so that there is equal competition and to make it simple for the government to use. The more simple it is, the contracting folks at GSA or all the ones who are not meeting the goals will have an easier way of meeting their goals.

The second issue is the SBA does not have enough money for on-site inspection. Instead of increasing the budget the recommended approach would be make the contractors applying for these program pay for the fee. For example, DSS uses third-party investigators for clearances for employee background checks. We are the ones that benefit from the background check to make sure that the fraud doesn't exist. Why not eliminate the fraud, make sure that there is a third party. You can have guys in Brooklyn, Iowa, even though the SBA isn't there, you could have people representing the SBA instantly on a roll out across the country.

Accountability, accounting-wise the SBA is underfunded to actually implement, manage and watch what the other agencies are doing. The State of Maryland, MDOT does on-site inspections and they make every contractor comply. They make the contractors that subcontract, the subcontractors that are small businesses actually submit affidavits stating that they were paid the funds that were claimed to have been paid by them, reducing fraud. There is an actual body that actually cross references all these documents and comes up with it. That I believe the SBA needs significant funding for, and that could put the teeth into this program for enforcement.

Agencies like GSA have been undermining a lot of the rules, like for example on HUBZone there is a price preference. In 2005, they wrote a memorandum of understanding stating that they weren't going to do evaluations. One year later after zero comments were issued, I didn't even know that there was a rulemaking issue, they enacted it. So today there is no price preference for GSA. They are one of the ones in red across the board. I believe all programs should have equality, should be fair, simple, easy to use.

One of the issues brought up was that a majority of the contract dollars were going to a select group of contractors, brought up by Representative Clarke. This is because there is a high degree—from the contracting side there is a risk of using small business. To replace a small business costs a lot of time and money. And so there is not equality. I mean to the government we are all commodities. I provide asbestos, demolition. There are a hundred companies that provide it. We are commodities. The question for the government, how do they reduce their risk exposure?

I don't know if I could be afforded more time. I have four or five more items as problems and solutions.

Mr. ELLSWORTH. Mr. Goel, they are going to call votes probably during this testimony. If we could do it and maybe get to it during the question and answer period, that would probably be preferable to the Committee.

Mr. GOEL. Thank you very much for your time.

[The prepared statement of Mr. Goel may be found in the Appendix on page 67.]

Mr. ELLSWORTH. Thank you, Mr. Goel.

I will introduce Mr. Newlan. If it please the chairwoman, Mr. Newlan is our next guest. Mr. Newlan is founder and board member of the HUBZone Contractors National Council. The council represents companies participating in the SBA's HUBZone program. Mr. Newlan, thank you for being here.

**STATEMENT OF RON NEWLAN, DIRECTOR, HUBZONE
CONTRACTORS NATIONAL COUNCIL**

Mr. NEWLAN. Thank you, Acting Chairman.

With the Chair's permission, I would like to put up a large visual display of New York's 12th District and the HUBZone areas within that district. In a few minutes we will swap it out and put up Ohio's First. I do have packages to hand out to the members and the staff of the HUBZone map of your own district, of every district represented on the Committee. And with your concurrence, Madam Chairwoman.

Chairwoman VELÁZQUEZ. [Presiding.] Without objection.

Mr. NEWLAN. We will hand those out as I am testifying.

Thank you for inviting me here today. I am particularly honored to be testifying before the Committee and a special hello to my good friend Congressman Bartlett, who has been a strong, strong supporter of the HUBZone program since the beginning of the program.

The HUBZone council is the only national trade association that focuses exclusively on expanding the implementation of the Federal HUBZone contracting program. A HUBZone is an area of our Nation that has high unemployment or low household income or both. Today nearly 37 million Americans live in poverty. There is a strong correlation between the locations of America's HUBZones and the locations where these 37 million impoverished Americans live.

This program was designed to create good jobs where America needs the jobs the most. The program creates these jobs by offering competitively awarded contract opportunities to small businesses that locate in a HUBZone and hire employees who live in these HUBZones.

Awarding Federal procurements to HUBZone firms is good policy for several reasons. Firstly, awards under the program are almost always based on competition so the government receives the advantages of competitive pricing.

Secondly, each HUBZone firm must have its largest office in a HUBZone. This stimulates the economic development in these zones of poverty.

Thirdly, at least 35 percent of each HUBZone firm's employees must live in a HUBZone. In many instances these employees before

being hired by a HUBZone firm were drawing unemployment and/or welfare. So there is a double win. We move the unemployed or welfare recipient back to the rolls of productive tax paying employees.

Today there are approximately 13,000 HUBZone firms. Their collective annual revenues exceed \$25 billion. If they were collectively ranked they would be ranked number 90 on the Fortune 500 list, larger than General Dynamics or Coca-Cola. Our resources as a community are vast. For example, in the district represented by Chairwoman Velázquez, New York's 12th District, I estimate that approximately 25 percent of the land area of the district has been classified as a HUBZone. In the 12th District there are 9 HUBZone firms and they employ approximately 200 people.

In Ohio's First District represented by the Committee's Ranking Member Chabot, a large majority of the geographical area in and around Cincinnati has been classified as a HUBZone. Ranking Member Chabot's district has 24 certified HUBZone firms that employ normally 1,500 people. In Texas' 20th District, represented by Congressman Gonzalez, there are more than 85 HUBZone firms that create more than 1,500 jobs annually.

Unfortunately, this well designed program has been very poorly implemented by the Federal agencies that buy America's goods and services. The HUBZone statute sets a goal for contracting for HUBZone firms at 3 percent. Despite the large size of our HUBZone contractor community the Federal Government has never come close. In 2005 they achieved 1.9 percent and in 2006, 2.1 percent.

If I had to attribute the program's lack of success to one thing, I would attribute it to the procurement community's reluctance to change their method of doing business. For every one HUBZone set-aside competition conducted in 2005 there were 78 small business set-aside competitions conducted. Yet the statutes and the regulations are clear, the HUBZone program is a higher priority program than the small business set-aside program.

The HUBZone statute and regulations require a contract to be set aside for HUBZone competition when a contracting officer has a reasonable expectation of receiving two or more offers from HUBZone firms and if the award can be made at a reasonable price. We refer to this as the HUBZone "Rule of Two". It is very disappointing to see how often a procurement community ignores the "Rule of Two" and conducts tens of thousands of procurements each year outside the HUBZone program that should be awarded using the HUBZone set-aside procedures.

If current regulations were followed by the Federal contracting community, more than 100,000 more jobs could be created annually for America's poorest residents. Now to make matters even worse, the House of Representatives has passed a bill, H.R. 1873, and sent it to Senate. One aspect of this bill is to increase the contracting goals for SDBs and women-owned firms to 8 percent annually. The House bill did not increase the HUBZone bill to 8 percent. If this was become law this would increase emphasis on SDB and women-owned contracting at the expense of the HUBZone and the service disabled veterans program. It is time for the Federal procurement community to follow the law.

Chairwoman VELÁZQUEZ. Um—

Mr. NEWLAN. I ask the Committee to convey to all senior officials and Federal procurement officials that the HUBZone "Rule of Two" means what it says and reemphasize that the HUBZone program has priority over the small business set-aside program.

Chairwoman VELÁZQUEZ. Mr. Newlan, unfortunately we have to go to the floor to vote, but in the question and answer period you will be able to accommodate your statement.

Mr. NEWLAN. Thank you, Madam Chairwoman.

[The prepared statement of Mr. Newlan may be found in the Appendix on page 71.]

Chairwoman VELÁZQUEZ. Now the Committee stands in recess.

[Recess.]

Chairwoman VELÁZQUEZ. The Committee is called to order. Our next witness is Dr. Trevor Brown. Dr. Brown is an Assistant Professor at the John Glenn School of Public Affairs, Ohio State University. Mr. Brown's research focuses on public management, contracting and contract managing and performance measurement.

Welcome, sir. You have 5 minutes to make your presentation.

**STATEMENT OF DR. TREVOR BROWN, ASSISTANT PROFESSOR,
JOHN GLENN SCHOOL OF PUBLIC AFFAIRS, THE OHIO
STATE UNIVERSITY**

Mr. BROWN. Thank you very much. Before I begin, I think Mr. Newlan was partly through his testimony. I don't know if there is time for him to finish off his testimony.

Chairwoman VELÁZQUEZ. He will have time during the questioning.

Mr. BROWN. I wanted to make sure I did not cut in.

Well, Chairwoman Velázquez, Ranking Member Chabot and honored members of the Committee, thank you for the opportunity to share my thoughts on the Small Business Administration's contracting program.

As a professor in the John Glenn School of Public Affairs at Ohio State University, as you just heard I study government contracting and contract management. My research examines why governments decide to contract for some services and not for others, perhaps more importantly what investments governments make in the capacity to manage contracts once they have been let.

This morning, or this afternoon I am going to offer my professional opinions on some of the SBA's contract requirements. In particular, I am concerned that the increased push to further limit combining multiple tasks into a single contract vehicle, sometimes referred to as contract consolidation or contract bundling, will inhibit Federal procurement personnel from maximizing public value.

I think that everyone would agree that government agencies should target two primary goals when they turn to the market, first, the procurement of high quality goods and services and, second, acquisition of those goods and services at the lowest possible cost. The problem is that these two objectives may at times be in conflict with each other.

Lower costs may undermine the quality. Reflecting on the launch of his mission to orbit the Earth, former Senator, U.S. Astronaut

and patron of the school where I teach, John Glenn replied, All I could think about was the 2 million parts that I was sitting in were built by the lowest bidder." Senator Glenn's seemingly prosaic thoughts as he hurtled through space starkly illustrate the challenges faced by public sector procurement personnel: How to use purchasing to deliver high quality goods and services at the lowest post cost. As a taxpayer this is exactly the question I want Federal Government procurement personnel focused on.

Fortunately, policy and practice has evolved since Senator Glenn's first days in space when procurement personnel were mandated to focus on cost and cost alone. Now procurement personnel have been given more flexibility and discretion to balance cost and quality. For example, the FAR, Federal Acquisition Regulations, now allow the use of vendor past performance as a decision criteria in contracting decisions.

Over the years additional requirements have been layered on top of the basic costs and quality calculus, and high on the list are goals for targeted classes of organizations of central importance to this Committee, Small Businesses. Now from the perspective of this Committee, taking steps to ensure government agencies utilize small business and procurements is an admirable goal. The SBA's data and other data clearly show the important role that small businesses play in the American economy.

However, the more goals, preferences, set-asides and other associated requirements that are layered into the procurement process, the more difficult it becomes for Federal procurement personnel to achieve the sweet spot between cost and quality. My written testimony that I have submitted discusses some of these reasons, but for time I will not go into those.

Increased requirements and the increased oversight and scrutiny that follow will cause public procurement personnel to focus more on the maze of rules and regulations, perhaps at the expense of maximizing public value and contract decisions. This tension is perhaps the most apparent in the SBA requirements restricting and combining of previously independent task requirements and the larger procurements, again referred to as contract bundling, but goes under the name sometimes of contract consolidation or strategic sourcing.

As the Subcommittee is well aware, contract consolidation increased considerably after Congress passed the Federal Acquisition Streamlining Act in the 1990s. Now there are good reasons for this increase. It can potentially lead to reduced costs as a result of price competition among larger firms, or as a result of scale economies. Contract consolidation can also increase the government's leverage over vendors. Private firms routinely use bulk purchasing to manage their supply chains. And as we heard from the honorable Representative Bartlett, contract consolidation can also result in reduced time in the acquisition process.

Contract consolidation or the consolidation of tasks into the single contract can, however, have detrimental impacts on small businesses. A growing body of research shows that bulk purchasing is a primary barrier to small business participation in government contracting as a prime contractor. On this point in the research

there is little debate. Individual small businesses are unlikely to win bids from many bundled contracts.

As you can see, clearly the question of contract bundling sits at the center of the tension between providing Federal procurement personnel the flexibility to optimize cost and quality and the goal of trying to ensure the equitable participation of small businesses and Federal procurements.

I am concerned though, based on information that I have seen, that the trend is toward excessive policing which comes at the expense of public value in Federal procurement.

As members of this Committee, you are chiefly concerned with the plight of small businesses. I propose that as you continue to make changes to the Federal procurement process you also continue to assess the impact of your decisions on the ability of Federal procurement personnel to deliver public value to the American taxpayers. This does not have to be a zero sum trade off.

In moving forward, I strongly encourage the Committee to try to identify ways to achieve your goal of maximizing small business participation in the procurement process without unduly inhibiting the other goal of achieving best public value for American taxpayers in the form of the balance between cost and quality.

To that end I just briefly will offer three specific recommendations that focus on increasing the capacity of the Federal procurement system.

Chairwoman VELÁZQUEZ. Dr. Brown. Are you able to summarize the three recommendations?

Mr. BROWN. Sure. To address both goals. The first is to enhance SBA capacity to facilitate rather than police. I think you have heard that already from members today, increasing the number of staff.

The second is to encourage collaboration of learning within the procurement system. There is a real opportunity over the next several years to build networks between SBA procurement staff and the contract staff within Federal agencies. The partnership for public service projects that the need for procurement staff there will be 8300 new opportunities throughout the Federal Government by 2009. The more that SBA's staff can work in partnership with those staff the better.

Finally, the third recommendation is to gather more information on the impact of contract bundling. As noted earlier, research is clear that contract consolidation harms small businesses in their drive to service prime contractors. But we don't know a lot about the impact from the research standpoint on small business participation and subcontractors.

I was happy to hear this morning about efforts to improve the access you all have to data. The other one that I would recommend you if you are not involved in already is that I am hopeful that recent congressional action to improve the quality of information in the Federal Procurement Data System, FPDS, is scheduled to go in effect in 2008 will also improve the knowledge base. To that end I encourage you to include information in that process on small businesses and subcontract arrangements.

I thank you for my time.

[The prepared statement of Mr. Brown may be found in the Appendix on page 79.]

Chairwoman VELÁZQUEZ. Thank you. Thank you, Dr. Brown, and thanks to all the witnesses for your participation this morning.

Mr. Newlan, we reviewed a sampling of HUBZone awards. Five went to large businesses. 40 percent of the companies weren't even certified into the HUBZone program. Can you tell us why is it that so many improper certifications are taking place?

Mr. NEWLAN. Well, I think it would be the same reason there is improper certifications taking place in all the programs. Contracting officers aren't checking. There is a database that you could go to and you could determine quickly whether they were HUBZone certified or not. That is a less than a 30-second drill on the Internet. A contracting officer has a HUBZone set-aside procurement, 5 HUBZone bidders, ready to make an award, doesn't bother to check.

Chairwoman VELÁZQUEZ. Mr. Newlan, Mr. Goel in his written testimony testified that SBA does not take the allegation seriously that the program is being abused. What would you propose that we need to do to ensure that these allegations are properly addressed?

Mr. NEWLAN. I am not going to agree that the program is being abused. However, one incident of improper certification is one too many. But it is a pretty clear-cut program. You are either in compliance or not. It is self-policed by your competitors.

Chairwoman VELÁZQUEZ. Um-hum.

Mr. NEWLAN. There is a very clear avenue for protesting the HUBZone size status of any winner of a HUBZone procurement, just like there is for a small business size protest of a small business procurement. And we encourage our members to protest if they have any reason at all to believe the winner of a HUBZone procurement is not a certified, in compliance HUBZone firm. I have firsthand experience that the SBA takes those protests seriously and renders detailed, meticulous decisions in each and every case.

Chairwoman VELÁZQUEZ. So you don't agree with the Deputy Administrator who previously stated that the program is flawed?

Mr. NEWLAN. I'd have to hear what flaw she's talking about.

Chairwoman VELÁZQUEZ. Well, it was in response to my answer.

Mr. NEWLAN. Well, again, maybe I'd have to meet with her or perhaps you and your staff and hear what flaws you have. I don't believe any program in the Federal Government is perfect. HUBZone would be in that category. It is not perfect and there is always room for improvement.

Chairwoman VELÁZQUEZ. So you disagree with the Inspector General's report?

Mr. NEWLAN. Which aspect of the report?

Chairwoman VELÁZQUEZ. Where he found that there are serious flaws in the program.

Mr. NEWLAN. I would disagree with that.

Chairwoman VELÁZQUEZ. Mr. Newlan, the government has a program, Section 8, that allows residents of low income areas to receive vouchers for housing assistance. Clearly no one will support low-income housing vouchers to be used to rent million dollar homes. Why should we have a program that allows people who own

million dollar homes to get contracts intended for low income communities?

Mr.NEWLAN. Because the contracts are intended to create jobs where we need them the most. Just as in a similar fashion you were asking questions earlier, Madam Chairwoman, regarding increasing the net worth of the 8(a) program.

ChairwomanVELÁZQUEZ. So is Winter Park in Florida one of those areas?

Mr.NEWLAN. Excuse me?

ChairwomanVELÁZQUEZ. Winter Park.

Mr.NEWLAN. I'd have to check the SBA map to determine. I have never been to Winter Park, so I don't know.

ChairwomanVELÁZQUEZ. Well, I have been there, I know the area. I know that it is a part of Florida where you find multi-million dollar houses. They don't qualify, that area doesn't qualify for HUBZone.

Mr.NEWLAN. Are you suggesting that it shouldn't qualify but it is now qualified? I'm trying to understand the question.

ChairwomanVELÁZQUEZ. HUBZone companies are in that area.

Mr.NEWLAN. Well, the definition of a HUBZone is where unemployment is high and wages are low. I suspect there is no county in the country or very few counties in the country as you get into rural America—as you know HUBZones are determined based on county basis in rural America, but as you go to rural America I suspect just about every county has one or more multi-million dollar homes while they have a lot of poverty in the county as well.

ChairwomanVELÁZQUEZ. Winter Park is not a rural area.

Mr.NEWLAN. Pardon?

ChairwomanVELÁZQUEZ. Winter Park is not a rural area. I assure you Winter Park does not have the unemployment rate that would qualify the area for HUBZone companies to be established.

Mr.NEWLAN. If Winter Park is not rural, it would be urban and in urban the determination is by census data regarding average household income. So they must have average household income under the statewide average for Florida.

ChairwomanVELÁZQUEZ. I want for SBA—and they are here today—to submit to this Committee the rationale for Winter Park to have HUBZone companies.

Mr.NEWLAN. I would just state that I am not firsthand involved, but I have heard that it is HUD that determines whether some area is or is not a HUBZone and SBA just implements the HUD determination.

ChairwomanVELÁZQUEZ. It doesn't matter, it doesn't matter.

Ms. Dorfman, in 2001 the regulations to implement the women's procurement program were in an OMB review with an extension granted by the SBA. Today the regulations are in the exact same place. Given this, what do you believe about the SBA's commitment to implement the program?

Ms.DORFMAN. It is my estimation that they have no commitment, especially when talking to Administrator Barreto a few years back and he actually stated to me, and this is a quote, that this administration has no intention of implementing this program.

It is now 7 years later and it has still not been implemented and we are hearing echoes in the hallways that perhaps that if it gets

implemented it would be implemented only by the narrowest way of assessing women-owned firms which would be to a detriment to our members and to the American women businesses across the United States.

Chairwoman VELÁZQUEZ. Mr. Chamrin.

Mr. CHAMRIN. Yes, ma'am.

Chairwoman VELÁZQUEZ. What are some of the unique challenges faced by service disabled veterans in accessing government contracts that other small businesses don't share?

Mr. CHAMRIN. First of all, I want to thank you, Madam Chairwoman, for allowing the American Legion to testify.

Service disabled veterans can be anywhere from 0 percent to 100 percent, they could have PTSD, traumatic brain injury, amputations, blindness. Some of these factors are hindering them from going to these contracting officers. A lot of these small business owners are individual owners, they are IT experts, they are computer experts. So they are sitting at home and it is hard for them to travel.

Another problem is that the contracting officers are not knowledgeable of all the service disabled veteran laws, especially Public Law 106-50, Executive Order 13360 and the Comptroller General decision B-299291. And we believe that if these contracting officers knew the laws and then implemented the laws service disabled veteran businesses would be gaining the 3 percent goal.

Chairwoman VELÁZQUEZ. So in your testimony you state that each Federal agency should incorporate Executive Order 13360 into the regulations and standard operating procedures. Why is it so important to the American Legion that each agency incorporate this Executive order?

Mr. CHAMRIN. Well, veterans along with other people on my panel have access to the entire federal Government and their procurement authority. And the Department of Veteran Affairs, a lot of these agencies feel that the Department of Veteran Affairs should have the onus and should have the priority of helping veterans. Well, that is just not the case, especially in procurement and contracting. And Executive Order 13360, it is an Executive order by the President of the United States to the Secretaries at the Cabinet level positions. And if they don't implement the orders, then one has to become accountable for it.

Chairwoman VELÁZQUEZ. So let me ask you, under current law there are no penalties if a company falsely represents itself to be a service disabled veteran business. Should there be penalties?

Mr. CHAMRIN. American Legion has no position on penalties. However, there is a Center of Veterans Enterprise operated by the VA which has the veteran business roster and each veteran-owned business is advised to go to the VA, and then they get certified by the VA as a veteran and as a service disabled veteran-owned business. We along with the Center of Veterans Enterprise and other small business owners are advising the Federal agencies to refer back to this list so that they guarantee that these are certified veterans and certified service disabled veteran-owned businesses.

You asked one question about false representation and you talked about contract bundling. We are chiefly concerned with some of the prime contractors going to our service disabled and veteran-

owned businesses, having them on the initial contract, checking the block and having them be part of the award paperwork. And then when the actual implementation of the contract and the services, and especially the payment goes out, these companies are not being awarded these monies.

Chairwoman VELÁZQUEZ. That is the problem we are seeing across the board and, believe me, we are looking seriously to see what kind of remedies we can put into the law to prevent it from happening.

Mr. Alford, when the SBA has testified about the 8(a) net worth limitation they have said that the average net worth for companies in the program is less than \$750,000. In your view is the \$750,000 personal network ceiling realistic for a business owner in 2006?

Mr. ALFORD. No, it is not realistic at all and I think it is kind of a self-fulfilling prophecy to limit people to a net worth of \$750,000 and then turn around and say, you see, everybody is less than \$750,000. I think we need to get up to the modern days and times.

Chairwoman VELÁZQUEZ. Mr. Goel, your business is construction.

Mr. GOEL. Yes.

Chairwoman VELÁZQUEZ. Is the \$750,000 personal net worth limitation reasonable for your industry?

Mr. GOEL. I would say no. To get bonding you need capital.

Chairwoman VELÁZQUEZ. Are you required to personally guarantee bonds and other business-related loans?

Mr. GOEL. All of my bonds I personally guarantee them. I am signed as an indemnity for the bonding company.

Chairwoman VELÁZQUEZ. Mr. Alford, several years ago agencies could limit competition to only minority-owned companies. That was put on a 2-year moratorium that has never been lifted. How important would it be to minority businesses to allow agencies to once again have this ability?

Mr. ALFORD. In effect in moratorium it became law I guess you could say, but yes, it should be lifted and we should be able to go back. It was an excellent instrument to get into the fray and to develop them.

Chairwoman VELÁZQUEZ. Would allowing agencies to restrict competition to minority-owned businesses help to ensure that companies survive after graduating from the 8(a) program?

Mr. ALFORD. Yes, indeed. They have got to have that experience before they graduate. Graduating with nothing is like graduating from high school and you can't read or write. What good is it? So you have to have that experience and that is the best approach to take.

Chairwoman VELÁZQUEZ. Thank you, and I will recognize Mr. Chabot.

Mr. CHABOT. Thank you, Madam Chair. Mr. Alford, I will begin with you if I can.

Mr. ALFORD. Yes, sir.

Mr. CHABOT. It is my understanding that the majority of the 8(a) contracts are awarded to our relatively small subset of companies. What recommendations would you make to spread it out more so that more businesses are able to participate?

Mr. ALFORD. I think lifting the moratorium for one. And I would like to see an analysis of these so-called super star 8(a) companies.

You have got one in Silver Spring, Maryland that is in the staffing business. The chairman of my association is in the staffing business, and somehow this person goes to \$200 million first contract, \$150 million. Now she is up to about a billion dollars in work and there is no way in the world that this has any sense of logic to it other than she is representing somebody else who is well established and are using her 8(a) status to get in there and get some preferences.

Now, going back to the talk of these false certifications, Attorney General Janet Reno took a very good approach when she came in and she considered false certifications a violation of the False Claims Act, and she made a very good example of Peter Kiewit, the largest construction company, and a few others who were using these front companies. And she tracked some off to jail and seriously fined Peter Kiewit and that sent a word out for a few years.

Mr.CHABOT. Thank you.

Mr. Chamrin, I will go next to you if I can. In your opinion, what is the primary barrier to greater participation by service disabled veteran-owned small businesses in the Federal procurement sector and what changes would you suggest that we make to remedy that?

Mr.CHAMRIN. As I said earlier, it is the lack of knowledge of these contracting officers. They are not educated in the law, and if they were educated and if there was proactive enforcement coming from the top down, from the Secretary level down to the Administrator and make these contracting officers have not just a tutorial, but a competency based test to make sure that they are aware of these laws. And with the recent decision, the decision from the Comptroller General dealing with Porta-Pottys, there was a decision that allowed these contracting officers to award a sole source contract as long as they have the intent of knowing that there are two possible service veteran-owned businesses out there. And what these contracting officers have been doing is requiring that they have two possible contracts in hand and that is not the law. They are enforcing something that is more strict and stronger than what the actual law is.

Mr.CHABOT. Thank you.

Ms. Dorfman, if you were to lead the U.S. Women's Chamber of Commerce as one of the top folks at the SBA, what would be the changes that you would make in order to remedy some of the failings that you address this morning?

Ms.DORFMAN. Well, first I have to say I am very happy to say you would hire me and not appoint me, because my only allegiance is to small businesses and I think that is the downfall. We have two people who are at the top of the SBA who come from large corporations that have no idea of the complexity of the small business environment. And I think we need to get knowledgeable people in there that are not the dog and pony show for every administration, Democrat, Republican, it doesn't matter, but we need qualified people heading up these.

The other thing is if you get somebody who has been a small business owner that you are going to get the best quality of I guess fiduciary responsibility, so to speak, because we know the value of a dollar, and we are going to make sure that we have the broadest

programs available with the least amount of money going out the door. So there is that to it.

I think a lot of things have to happen that we first of all must go back to listen to Congress and implement the laws that are put forth. We also need to be part of the Cabinet at the leadership level to make sure that the voice of small business is heard so in the changing environment that there are experts there at the table that can help folks understand what needs to happen and the shifting climate, the different programs that need to happen right now.

We have had some comment and discussion about well, we have got all these small business programs, different set-asides, and can we combine them, what would that look like? I think one flaw in all the programs is that they keep you small. The small businesses are not able to grow, they get to a certain size, they graduate the program and, lo and behold, they are out competing with Lockheed Martin and there is no in between place to grow.

So we need to have some support so that instead of having these false ceilings of growth that we can help small business grow, and I think ultimately the SBA has to get back to the roots and realize that small businesses are the answer to the growth of the economy, that we are here as an investment for the American people and that small business has always been. When you think of the United States, you think of small business growth and the opportunities that are here and I would love to see that return.

Mr.CHABOT. Thank you very much.

Mr. Goel, in your testimony you asserted that the HUBZone program really isn't achieving its goals. What reforms would you like to see made in order to accomplish that?

Mr.GOEL. Well, in our particular case, we are a HUBZone certified firm. We are also 8(a) certified. The opportunities that exist in the 8(a) market are significantly larger and more plentiful. There are more Federal acquisitions for 8(a) than any of the other avenues out there. But I don't believe it is effective. I know we bid on a contract for asbestos removal I believe in—forgive me—I think it was Scott Air Force Base in Illinois? Forgive me, I am not as familiar, but we specialize in asbestos and we can do this anywhere in the country—set-aside for HUBZone. And there was one contractor that specialized in asbestos and across the river he had another sister company that was his counterpart. I actually submitted the fraud incident to the SBA on that under an anonymous name. I don't want to be the trouble maker, but again literally on the Web site you could tell that they are the same company. That was the incumbent contractor for the contractor. It set it up for the HUBZone so that the specific contractor got it. It wasn't a matter of opening competition. They wanted that contractor. There was no longer 8(a) and they liked him and so they created a requirement to do it and they picked somebody that was in a HUBZone across the river that met the criteria and it happened to be the same firm.

I think to fix the HUBZone program you need full enforcement. The SBA is totally underfunded to do it. I talked with my business opportunities specialists and they are overworked, they don't have the funds, they don't have the ability capital wise to actually go to every location, they have to go to every location. And if it meant for me to make sure that the competition was equal and fair and

they weren't fraudulent and I had to pay \$1,000 to have a private, third party from the Federal Government go out and investigate each firm, so be it. I mean, I am the one that benefits. If there is a HUBZone opportunity, I am the one who is damaged when there is a fraud out there because they are taking advantage of the program. If it means \$1,000 to fund the SBA from us the contractors that benefit to create that third party like they do for the top security clearances in the United States, so be it. I mean, it is a minor price to pay for equality in the workplace.

Mr.CHABOT. Thank you. I don't mean to cut you off. Do I have time—

ChairwomanVELÁZQUEZ. I would like to ask you to yield for a minute.

Mr.CHABOT. I would be happy to yield.

ChairwomanVELÁZQUEZ. Mr. Newlan, listening to Mr. Goel's recommendation here, for the good name of the HUBZone program would you support on-site reviews?

Mr.NEWLAN. We don't have any problem with on-site review.

ChairwomanVELÁZQUEZ. Good.

Mr.NEWLAN. But I am not sure I want to support the thousand dollars that he just said that HUBZone firms might have to pay. If Congress authorized the SBA the money and they have the time and energy to come out, we would fully support aggressive enforcement of all aspects of a HUBZone.

ChairwomanVELÁZQUEZ. You will support on-site review for all participants of the program?

Mr.NEWLAN. Federal funded, yes.

Mr.CHABOT. Reclaim my time.

ChairwomanVELÁZQUEZ. Thank you, sir.

Mr.CHABOT. Thank you.

What recommendations, if any, would you have for any low cost mechanisms that could be implemented for HUBZones that would ensure that only eligible firms receive government contracts? I think you mentioned in your testimony, for example, many rely upon somebody else to tell on them basically because they are competing and that sort of thing, but are there any recommendations you would make in that area?

Mr.NEWLAN. I think all small business programs rely on self-policing, and your competition is watching closely, just like Mr. Goel saw this action going on and he reported it. So I think that is first and foremost. The other is let's put some teeth into what happens if you get caught. If you break the law, if you commit fraud or whatever the exact legal term is, you should be dealt with and you should be punished. There is nothing wrong with that. You know the rules, you sign up for the rules, and if you break the rules, I am sure the Congress can come up with that or maybe it is already in the law, but let's enforce it and, as Mr. Alford said, once the word gets out less people with break the law.

Mr.CHABOT. Thank you.

Mr.NEWLAN. There is nothing wrong with that.

Mr.CHABOT. And finally, Dr. Brown, let me just note that obviously being from Ohio State University, my home State, our colleague who unfortunately passed away a couple of weeks ago, Paul Gilmore, who many of us attended his funeral in Columbus just

last week, he was one of the biggest Ohio State Buckeye's fans that I have ever known. He was always at every Saturday home games and many of the away games as well. It was one of the great pleasures that he had in life, and so we are all going to miss him tremendously.

Mr.BROWN. Your sentiments are shared by the Buckeye family and the State of Ohio. The people in my department were very saddened.

Mr.CHABOT. Thank you and quit losing to Florida, okay? That is not the question.

If past performance plays such a crucial role, how should Congress enact policies that balance the need for experienced government contractors with the goal of helping new entrants?

Mr.BROWN. Well, I think one of the most important things that relates to this particular issue, as you heard here a theme throughout, is acquiring sufficient numbers of government procurement personnel. That is clearly a pressure that will exist, but acquiring those with sufficient skills and knowledge of how the system works and not only how the system works, but how the market works.

Again, one of the themes I am trying to get across with my comments is acquisition personnel historically have been back office functions that were largely follow the rules, but with the incredible volume of dollars that government is engaged in outsourcing they have elevated in prominence. These are people who are at the strategic center of most agencies and you need to ensure to the degree that you can, whether it is through funding or through the requirements that are set out there for procurement personnel, that they have adequate training and adequate experience in the rules, but also in the way that markets work. It isn't simply rewarding the same companies over and over again, but it is trying to go out and stimulate new market development. Businesses are one avenue for that.

I have spoken with one government personnel individual in procurement personnel in the Department of Homeland Security. They facing a tremendous crush of a need for new acquisition personnel, and they describe it as squeezing the balloon. We take them from someplace else and somebody else needs them. DOD has tremendous needs so this is a challenge that faces the government's system as a whole.

Mr.CHABOT. Thank you. I yield back, Madam Chair.

ChairwomanVELÁZQUEZ. Ms. Clarke.

Ms.CLARKE. Thank you very much, Madam Chair.

Mr. Goel, it is clear that when it comes to expressing your concerns about the HUBZone program you had some difficulty getting the SBA to take some action. As a result of your experience with the HUBZone and 8(a) programs, you expressed a litany of suggestions during your testimony. It was quite intriguing.

For instance, you state that the HUBZone program should apply only to contracts for the construction of Federal projects within a 150-mile radius of the HUBZone contractor's principal place the business. Only those projects can offer employment to a significant number of HUBZone residents and only those projects can promise to make a lasting change in their economic circumstance.

Are there any other reasons why the program should be limited to construction projects in or near a HUBZone that you can identify?

Mr.GOEL. Well, I will use an example in D.C., and obviously it is the largest area where the Federal Government spends money. There is no HUBZones in the County of Montgomery or all of Northern Virginia so and yet there are how many tech firms that are in the HUBZone? I mean, I have a hard time fulfilling HUBZone requirements here in the Washington, D.C. Area and I do demolition with unskilled labor, okay? I mean, to try to find workers that reside, that actually do live in a HUBZone, this being the largest area where the Federal Government spends its money, I mean I don't know of any tech firm that could qualify in the Washington region.

Ms.CLARKE. Thank you, that is a very, very important point and the example you have given, perhaps we need to visit HUD about that. But thank you for sharing that with us.

Do you believe that Congress should require the SBA to revise the self-certification process by requiring HUBZone companies to file annual reports certifying their annual sales and affiliation, including partnerships with large firms performing subcontract work for the HUBZone businesses, and why? And I would like to actually put that out for the rest of the panel to answer as well.

Mr.GOEL. Well, my personal opinion is there should be a yearly audit and it should be funded by the beneficiaries so that the taxpayers of the United States don't to pay. It would enforce equality. As I stated earlier, personal opinion, not that of AGC, is there are so many programs that it is not simple for contracting officers to actually make sense of these programs.

And the one thing that I didn't get to discuss is, for example, we do demolition and I am going to use this building as an example, the Rayburn Building. This is being modernized, everybody in Washington sees the Clark signs, let's say Clark was renovating this. And underneath them if you were going to modernize this building, let's say 35 percent of this building would be the mechanical systems, so that might be a John J. Kirlin or major mechanical, \$100 million to renovate this building, \$35 million for the mechanical installation package. The Federal Government in their accounting structures only gets to account for prime and first tier. So after first tier and we do mechanical insulation, John J. Kirlin doesn't have a requirement to meet a subcontracting goal for their mechanical insulation or the people that put in their ductwork or all of the rest.

The majority of us small businesses we exist on a third tier, that is where we are at. There is no accounting for it.

Ms.CLARKE. I would like to ask Mr. Alford and others to give their opinion as well.

Mr.ALFFORD. Yes, ma'am. I believe self-certification is an invitation to abuse, big abuse, it is just human nature. You must have site visits. And I think the HUBZone program is so similar to section 3 of the HUD Act, that probably if you look at section 3 of the HUD Act, where of all the housing authorities in the United States maybe 10 are actually using section 3, which is hiring residents of public housing, or those living under the poverty level to become

a section 3 company, it is so similar. And if we were to enforce section 3, viola, you probably would have a lot of HUBZone companies being developed.

But we filed a complaint against the City of Jacksonville, it is a test case, and after 15 years, Secretary Jackson gives them until September 30th to come up with the program or else he is going to come in and establish it for them. And this is a first case after 15 years, but if we can implement that and we have got promises to do it in New Orleans, where 40 percent of that workforce in New Orleans will be coming from public housing residents who have for the first time a chance to learn the skills of construction and we are very excited about that, but they are so similar.

Mr.CHAMRIN. There is some real data out there with the VIP page operated the Center of Veterans Enterprise, and Scott Dennison is the director and he can probably give you the numbers, but approximately the numbers went up from 12 to 13,000 supposedly certified veteran-owned businesses to 9,000 since VIP has implemented their new program of how to certify and they are much more proactive. As I said before, if we can refer everyone, all the governmental agencies, to use the VIP, you are guaranteed a veteran and service disabled veteran-owned business.

ChairwomanVELÁZQUEZ. Go ahead.

Ms.DORFMAN. I just want to from the women's standpoint and women's Federal procurement program, we would find that a bit challenging. As self-certification works right now, it is on, we would be able to police it from the outside and hopefully if there was a charge that fraud was found that we could actually hold the accountability and go through that process.

The issue right now that stands before us, if we go into the whole certification issue, that the question is how long will it take it to happen because then that will extend the implementation of the law that we are waiting to be implemented today.

In the first draft of the regulations that came out from the SBA, they said that yes, they wanted to do their own certification and maybe they would do 2,000 certifications a year for women-owned firms. There are 76,000 women-owned firms registered in CCR right now, and that means it would take another 38 years to implement our program, and I find that very challenging and I would hope that would not be a requirement.

Thank you.

ChairwomanVELÁZQUEZ. Time has expired.

Mr. Bartlett.

Mr.BARTLETT. Thank you very much.

Mr. Newlan, you had some excellent recommendations for our Committee in your testimony and I would like to give you an opportunity to go through those, if you would.

Mr.NEWLAN. Thank you, Congressman.

You know, we have got to get the attention of the senior officials at all the agencies that HUBZone rule 2 and for that matter all the rules that apply to the programs here at the table are there for a reason and they have got to be followed. We need to reemphasize that the HUBZone program has priority of the small business set-aside program and that the regulations mean what the statutes say. The SBA headquarters HUBZone program needs to regain its

line item status, and I would ask the Congress to appropriate no less than \$15 million annually for this hardworking SBA headquarters staff department that oversees the HUBZone program today. There has been a lot of dialogue here about oversight of the HUBZone program and if the Congress wants to increase oversight over the HUBZone program, put the money into the program and it can be done appropriately.

An earlier question of Ranking Member Chabot was if you were in the SBA and you could change something, what would you do, and I was hoping they might ask me that question. But I try to come up with some carrot and stick for the other departments, for the DOD and the HUD and Department of Labor, and all these agencies that don't hit their HUBZone and other goals. How can we convince and motivate?

Again, the earlier dialogue was with UPS. UPS wouldn't put up with that I am sure, never having worked there, but we have got to figure out how to get the attention of those agencies that fail to meet the red in the scorecards.

And I would add if we are going to increase any small business program goals to 8 percent, you have got to take the HUBZone goal and the service disabled veteran goal with you. If not, you are going to just take the business right away from the HUBZone firms today and give it to the SDBs and the women-owned firms.

Mr.BARTLETT. Thank you very much.

I would just like to give personal testimony for HUBZones. The first one in the Nation was in my district in Garrett County. Garrett County had 14 percent unemployment when I came here to Washington and we have several HUBZone contractors there now and one of them just is bringing 70 jobs there, and he will be paying his people three to four times the mean average salary in Garrett County. HUBZones really help areas. These others programs help individuals and businesses but the HUBZone program really uplifts an area. So I am a huge fan of HUBZones.

Our staff prepared for us a little memorandum for this Committee and lead me read here. It says, nearly 84 percent of all 8(a) dollars in fiscal year 2005 were modifications to contracts awarded to companies that graduated from the program prior to that year.

Can somebody on the panel tell me what that means? I hope it doesn't mean what I think it means. Let me tell you what I think it means and you tell me if I am wrong. What I think it means is that companies who have been 8(a) contractors, noncompetitive; just because you are who you are you get the contract. And they have been on that for what, 9 years; is that right? And then you graduate from the program. But 84 percent of all the money in 2005 went to companies that had graduated but they still couldn't compete in the private sector so they were now still—I don't want to be uncharitable in what they are doing, but they are kind of still feeding at the public trough after 9 years. What do we need to do? It shouldn't take 9 years to learn how to run a business. What do we need to do to fix that?

Mr.GOEL. If I may, I would guess, since I don't have any first-hand knowledge of why that would occur, a lot of the contracts to come out are multiyear contracts. So for example, we have a demolition contract for the Norfolk region of the Navy businesses. It is

a base year plus 4 years. So if an 8(a) contractor came in on its 8th year, won a multiyear contract and it was for 5 more years, then the funding would be for 4 more years above and beyond its 8(a). The 8(a) would only last on the date of—

Mr.BARTLETT. I understand. I would just like to ask our chairwoman if she could have the staff find out how many of the 84 percent of the dollars were going to follow-on contracts to 8(a) companies and how many of them were new dollars that were going to the company that should have graduated.

I would just like to say, Madam Chairman, that all of the 8(a) programs, as I understand it, are sole source and noncompetitive, essentially all of them. Am I not correct that all of the HUBZone contracts are competitive contracts? By the way, they are going to help people in the same kind of areas, poor people who don't have jobs and who have low income, because that is the only place a HUBZone can be located.

ChairwomanVELÁZQUEZ. Does the gentleman yield?

Mr.NEWLAN. There virtually is no HUBZone sole source.

Mr.BARTLETT. That is my understanding.

ChairwomanVELÁZQUEZ. It does have a sole source component.

Mr.NEWLAN. Yeah, but you have to be the only certified HUBZone firm in America that can do the job.

ChairwomanVELÁZQUEZ. But it does have a component of sole source.

Mr.NEWLAN. Yeah, but virtually there never is only one HUBZone certified firm, there is only two or more.

ChairwomanVELÁZQUEZ. The answer to the question of the gentleman is it does have the component of sole source.

Mr.BARTLETT. It is rarely used.

ChairwomanVELÁZQUEZ. Well, maybe we need to do an investigation and we cannot rely on the information and the data provided by SBA on any of the agencies.

Mr.GOEL. On the 8(a) side.

ChairwomanVELÁZQUEZ. Time is expired. I would like to ask a question to Mr. Alford.

Currently for SBA contracting programs, 8(a), HUBZone, women contracting and service disabled veterans, they are all fighting each other for supremacy in the declining small business segments of the Federal market. How best do we refocus these programs to target the nearly 80 percent of Federal contracts that are being performed by large businesses?

Mr.ALFFORD. Yeah, well, I think first we need to identify how many SDBs are minority, how many women are veteran business owners also, and how many are disabled veteran business directors. I am looking at my board of directors who are entrepreneurs; 75 percent of them are veterans and may have a disability but don't claim it. So we need to find out what the capacity out there actually is on these and you have got to be specific.

Mr.ALFFORD. And if we want to go by the Supreme Court and the Adarand decision, you have got to be specific and tailor these things to specific groups. You cannot lump them all in as one, because they are not the same, and they are coming from different backgrounds and for different reasons. So an African American fe-

male who is disabled as a veteran, does she hit all four? Does she hit all the categories or is that different?

Mr.CHAMRIN. Madam Chair, could I just add one thing to that? May I?

To quote one of our small business task force members, it is not just a slice of the pie, but it is the layers of the cake, and there are so many opportunities out there for all of these business owners to achieve these contracts. What they need to do is to lower the threshold of some of these contracts.

Why are they making the requirements A, B, C, and D where one small business cannot achieve all of these? Why can't they just have a \$20,000, \$30,000, \$50,000 contract of just requirement A and just make the layers of the cake much, much more dense and with many more layers?

Mr.ALFORD. I would agree with that.

ChairwomanVELÁZQUEZ. I know that Ms. Clarke asked this question to the deputy administrator, regarding the concentration of contracts in the data program that is so severe. In 1999, the top 10 companies received 15 percent of the dollars. In 2005, the top 10 companies received more than 40 percent. In 2005, 93 percent of the 8A contracts did not get any money. So what does that tell us?

Mr.ALFORD. That tells us there are a favored few, and most of them probably are A and C companies or others who have some very close relationships with a Lockheed or a Boeing or what have you; and they serve as the ones who go out into the vineyards and bring back the grapes for big daddy.

Mr.CHAMRIN. The super primes. They just call it the "super primes." Like he said, they are just so integrated with all of these other small businesses that they get all of the big contracts.

ChairwomanVELÁZQUEZ. Thank you.

I want to thank all of the witnesses, if the ranking member does not have any other questions.

Mr.CHABOT. No, Madam Chair, but I would just like to comment. I thought all of the witnesses were very, very good, very effective in conveying their points of view and answered the questions, I thought, very well; and I want to thank them for contributing to this hearing.

Thank you very much.

ChairwomanVELÁZQUEZ. Again, I want to thank the witnesses for staying here and participating in this panel and for sharing your experiences with us. As we can see, there is much work to do to get these programs so that they comply with the intended mission that they were set up for.

So, with that, I ask unanimous consent that all members have 5 legislative days to submit material.

With that, the hearing is adjourned. Thank you.

[Whereupon, at 1:13 p.m., the committee was adjourned.]

Opening Statement
of the
Honorable Nydia M. Velazquez, Chairwoman
House Committee on Small Business
Full Committee Hearing on SBA's Contracting Programs
September 19, 2007

I call this hearing to order.

Today the committee continues its work toward opening the federal marketplace to small businesses. Important tools in this endeavor are an array of programs that, through their training and business development, help this nation's entrepreneurs get a foot in the door.

The need for these initiatives could not be greater. Recently the SBA announced that for the 6th year in a row, the federal government failed to meet its small business goal, costing entrepreneurs 4.5 billion in lost opportunities.

The committee took an important step in bringing equity to our procurement system when we passed Mr. Braley's bill H.R. 1873, *The Small Business Fairness in Contracting Act*. However, to fully benefit from the changes that were made, a strong complement of contracting programs is also required.

We rely on these initiatives to spur the next generation of supplies, providing diversity that allows the taxpayer to get the best value for its dollar. Unfortunately, many were created in the 1960's and have seen little change since then. As a result they have fallen into complete disarray, largely due to mismanagement, under-funding and neglect.

Modernizing and in some cases – such as with the veteran's and women's procurement programs – simply implementing them is all that is needed to get the process started. The way the government purchases services and products is constantly changing, and the bottom line is that these initiatives need to keep pace. No Fortune 500 company would enter into a long term relationship without a strong understanding of the types of resources that are desired to keep the partnership growing – but that is exactly what agencies are doing today.

If we are serious about business development then it is critical that barriers are removed, true incentives are provided and long term relationships are treated as such. This will ensure efforts invested by both sides result in tangible benefits for the federal marketplace.

It is also vital that programs stay true to their original intent. Earlier this year, the Committee took steps to address the practice of large business receiving small business contracts. Just as we closed loopholes, which cost small businesses billions in lost opportunities, we also need to make sure that contracting initiatives don't fall prey to similar unintended consequences.

Certain initiatives – like the HUBZone – have strayed from its initial purpose. On the surface, it has a goal of economic development in low income communities, but in many cases, this program fails to accomplish that.

Today 80 percent of all firms are not even eligible after three years, and a preliminary Committee review found that many HUBZones contained multimillion dollar homes. This is not exactly what one would expect for an initiative designed to spur development in low income areas. Not only are more resources needed for oversight, but also greater protections to weed out the bad actors.

While many who raise opposition over these initiatives point to the shortcomings, it is important that as the committee proceeds we focus on the original function of supplier development. They are not intended to be handouts and this nation's entrepreneurs aren't looking for one. What they do want is a fair opportunity to provide goods and services. With proper reform, these programs can do just that.

Small business plays an important role in all of our communities. They are the innovators – discovering one-third of all new patents. They are the market pioneers, representing 99% of all exporters. And they are the job creators, providing nearly 75% of Americans with their first jobs. Through thoughtful improvements, coupled with legislation passed earlier this year, small businesses can add another function to the list of critical roles they play in today's economy – supplier to the nation's taxpayers.

With that I yield to the Ranking Member Mr. Chabot for his remarks.

Opening Statement

Hearing Name	A Hearing on SBA Contracting Programs
Committee	Full Committee
Date	9/19/2007

Opening Statement of Ranking Member Chabot

Good morning and thank you all for being here as we examine the government contracting programs authorized by the Small Business Act and their effectiveness in providing greater opportunities for small business concerns to contract with the federal government. This hearing also will provide an overview of the Small Business Administration's management of these programs. I would like to thank Chairwoman Velazquez for holding this hearing and each of the witnesses for taking the time to provide this committee with testimony.

The Small Business Act states that the essence of the American economic system of private enterprise is competition. The preservation and expansion of such competition is basic not only to the economic well-being, but to the security of the nation. Such security and well-being cannot be realized unless the actual and potential capacity of small business is encouraged and developed.

Small business embodies so much of what America is all about: self-reliance; hard work; innovation; the courage to take risks for future growth. They are values to be passed on from generation to generation. We must ensure that our small businesses continue to thrive and prosper, not for their own sakes, but for all our benefit.

To help achieve this objective, Congress recognized that providing goods and services to the federal government would be one way to support the growth and development of small businesses. The Small Business Act contains congressional direction to use federal acquisition policies to ensure that small business concerns receive their fair proportion of the total contracts for property and services.

According to the SBA, small businesses represent 99.7 percent of all employer firms, employ 50 percent of all private sector employees, pays 45 percent of total U.S. payroll, and account for 60-80 percent of new job growth in the past decade.

Despite the growth in small businesses, the overall share of small businesses in selling goods and services to the federal government does not reflect the growth of these businesses in the overall economy. This has occurred even with a number of programs that are specifically designed to help targeted small businesses sell their goods and services to the federal government.

The SBA oversees programs providing contracting assistance to socially and economically disadvantaged groups (more commonly called the 8(a) program), firms located in historically underutilized business zones or HUBZones (including a number of such zones in my district), service-disabled veterans, and a woman's program procurement that has yet to be implemented some seven years after congressional enactment and two years after a judicial decision finding that the SBA unreasonably withheld action in not implementing the program.

As the committee continues its work on these programs, I think it should seek legislation that meets the noble objectives of the various SBA contracting programs, while reducing the friction that exists among these various groups of small businesses. In addition, the committee should ensure that these programs operate in the most cost-effective manner possible.

We have excellent witnesses here today to provide us with insight into the government contracting programs authorized by the Small Business Act, as amended. I look forward to their testimony and any ideas that they may have concerning the objectives I have laid out. Again, I thank the Chairwoman for holding this important hearing, look forward to working with her on necessary improvements to the contracting programs overseen by the SBA, and yield back the balance of my time.

**Testimony of
Jovita Carranza
SBA Deputy Administrator**

**Before the
House Small Business Committee
September 19, 2007**

Chairwoman Velazquez, Ranking Member Chabot and Members of the Committee, thank you for the opportunity to testify before you regarding SBA's government contracting and business development programs.

I am Jovita Carranza, Deputy Administrator of the SBA. I appreciate the opportunity to testify today, regarding the operations and successes of SBA's activities in this area, and to briefly discuss our continued efforts to ensure greater transparency and accountability throughout the federal procurement process, especially in terms of increasing opportunities for small businesses.

Progress in the area of government contracting dollars going to small businesses has been significant since FY 2000. There were \$30.3 billion more in small business prime contracts in FY 2005 than in FY 2000, supporting an estimated 235,000 jobs.

SBA recognizes the need for improving our government contracting programs and is taking the lead moving forward, along with the Office of Management and Budget's Office of Federal Procurement Policy (OFPP), to carry out a number of initiatives, including working with agencies to ensure their small business contracting number reporting is accurate. The integrity of the data reported to Congress and the public is crucial to instill confidence in the Federal contracting system. Along with the Administrator of the OFPP, Administrator Preston issued a memorandum to all federal agencies requiring them to review their procurement data and identify any necessary changes to help resolve apparent discrepancies in the Federal Procurement Data System.

Under Administrator Preston's leadership, SBA has taken a number of steps recently to make contracting data more transparent and accurate. This summer, all federal agencies completed final review of FY 2006 data in the Federal Procurement Data System – Next Generation (FPDS-NG). Last month we published the official Small Business Goaling Report for FY 2006. We also re-issued the FY 2005 report, based upon extensive analysis and scrubbing of data over the last twelve months. We believe that while these reports may not be flawless, they reflect substantial improvement in the quality of small business procurement information, and are more improved today than ever before and we are committed to further improvements as we proceed.

After working with federal agencies to identify miscoding and anomalies in the contracting database, the restated Goaling Report shows that \$77.7 billion in federal

contracts were awarded to small businesses in FY 2006, up \$2.7 billion from the previous year. This equates to 22.8 percent of all federal contract dollars for FY 2006, just short of the goal of 23 percent. We are confident that by making these changes, we have increased accuracy, transparency, and accountability, providing a true reflection of the opportunities provided to America's small businesses.

Although the federal government was not successful in meeting the procurement goals for HUBZones, women-owned businesses, and veterans, the report shows that contracts with small disadvantaged businesses were up from \$21 billion in FY 2005 to \$23 billion in FY 2006, representing 6.76 percent of total contract dollars, well above the 5 percent goal. Contract dollars for participants in the 8(a) Business Development program were up from \$11.7 billion in FY 2005 to \$12.5 billion in FY 2006 or about 3.67 percent of the total. Contracts with women-owned small businesses increased by \$1.4 billion to \$11.6 billion, which equates to 3.4 percent. Meanwhile, contracts with HUBZones increased more than \$1 billion to \$7.2 billion or 2.1 percent in FY 2006.

A great example of the progress being made in this area is SBA's recent publication of the first of a twice annual Small Business Procurement Scorecard. The scorecard is a method of ensuring that federal agencies provide the maximum possible opportunity for small businesses in the federal marketplace, consistent with statutory contracting goals. It reflects "current" performance, and more importantly "progress" federal agencies are making in improving such performance. The new scorecard uses the same approach as the President's Management Agenda to ensure that agencies have clear goals and action plans, and are regularly assessed on their performance, and data integrity is a key element of it. Additionally, the Scorecard is an important tool to both increase procurement opportunities for small businesses while more accurately measuring each individual Agency's results.

We have developed simple, straightforward, and measurable criteria for the government-wide Small Business Procurement Scorecard. FY2006 will be the base year. The Scorecard will further help agencies measure their achievements and progress in making contracting opportunities available to small businesses, improve accuracy of contracting data regarding small businesses, and provide the public the opportunity to assess agencies' performance in meeting their goals.

This scorecard, along with the advances made in FPDS-NG, are significant steps in adding transparency to the goaling process. In the scorecard category of meeting small business goals, seven agencies scored green (the highest level of achievement), five scored yellow and 12 were red. SBA is working with all agencies to improve these scores going forward, including those who have been meeting their goals. In the category related to progress, 12 agencies were rated in the green column, eight were yellow, and four were red.

The way to increase competition further is to decrease practices like contract bundling and long-term, sole-source contracting – which can be done with a strong commitment to procurement planning, and changing the way agencies approach

contracting. Agencies have shown that they can change the way they do business with proper encouragement.

The Administration, through SBA's Small Business Procurement Scorecard, will give agencies the encouragement to meet small business goals and give them credit for this progress. The expectation is that it will provide benefits such as the sharing of best practices. Each scorecard will be tailored to the individual procurement characteristics of the agency and SBA will work with each agency to establish its milestones while addressing their unique procurement requirements and challenges. Each agency will be measured against its own achievements in identifying small business opportunities.

I would like to take just a moment to let the committee know that SBA is in the process of implementing its new size recertification rules. This new regulation requires small businesses to recertify their size status on long-term contracts at the end of the first five years of a contract and thereafter whenever a contract option is exercised. In addition, recertification is required for short-term contracts, when a small business is purchased by or merged with another business. When contractors can no longer certify their small business size status, buying activities can no longer count awards to them toward their small business goals. These changes do not affect the terms and conditions of the underlying contract, nor do they require termination of existing contracts where size status has changed. Ultimately, the new size recertification rules will ensure more accurate data and further support our efforts to help small businesses receive more prime contracts throughout the federal government.

Along with the Procurement Scorecard and increased data transparency, SBA is focused on a number of other initiatives within the Government Contracting and Business Development arena. These include Administrator Preston's initiative of expanding opportunities for small business including underserved markets such as women-owned small businesses, HUBZone certified firms, service-disabled and veteran-owned small businesses.

As we further our efforts to assist underserved markets, we continue to be concerned and cognizant of making sure we do not set as rivals one program against another as they share the same end goal. To this regard, SBA's FY 2008 Budget includes a request for \$500,000 to examine how best to serve the 8(a), HUBZone, and Small Disadvantaged Business Communities, as well as women-owned and service-disabled veteran-owned small businesses, while not restricting the success of any one program. We recognize the Agency can improve on the current progress in the management as well as the effectiveness of these important programs and will use these resources to determine how to best serve these communities. These resources will be used to analyze, among other things, training and the use of technology in order to determine how to best service the businesses that use these products.

SBA recognizes the limited success we have had in reaching and providing assistance to more business in the HUBZone and 8(a) programs as well as Service Disabled Veterans, and we are aware we have a lot more to do. We continue to reach out

to contracting officers to promote the HUBZone program and the businesses that participate. The backlog of 8(a) applications is gone. And we remain committed to those who have served our country, the Service Disabled Veterans (SDV). While short of the targeted goal, I am pleased that the dollar amount to SDV firms increased by 50 percent in FY 2006 from \$2 billion to \$3 billion in federal contracts.

Furthermore, SBA has already committed to and is in the process of hiring additional Procurement Center Representatives (PCRs), with a proposal in our FY 2008 budget request to fund 5 additional PCRs. We are very focused on backfilling any positions that become vacant in a timely fashion as we realize the importance these individuals play.

To better serve small businesses who do business with the government, SBA is redefining roles and responsibilities so that PCRs can devote more time to finding opportunities for small businesses with procuring agencies, while the district offices, SBA, and non-SBA resource partners focus more time providing training and counseling to getting small businesses positioned to compete for Federal contracts.

Chairwoman Velazquez, this concludes my testimony. I look forward to answering any questions you may have.



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SMALL BUSINESS ADMINISTRATION'S CONTRACTING PROGRAMS

CONGRESSIONAL TESTIMONY
September 19, 2007

To

HOUSE COMMITTEE ON SMALL BUSINESS

Honorable Nydia M. Velazquez, Chairwoman

By

Harry C. Alford

President/CEO

Madame Chairwoman, distinguished members of this Committee thank you for giving the National Black Chamber of Commerce the opportunity to speak about the contracting programs of the Small Business Administration. We will submit a full testimony within the subsequent 5 day time span. But for now I want to voice a few important views about the current status of the SBA and how it impacts our membership.

The National Black Chamber of Commerce is a nonprofit, 501©3, organization that is dedicated to the economic development of African American communities through entrepreneurship and capitalistic activities. We have over 130 chapters located in 41 states and 8 nations. We have reach to over 100,000 Black owned firms and consider ourselves the largest business association representing Black owned firms.

Back in 1996, a Deputy Administrator of the SBA told my Board of Directors that the SBA was no longer going to concentrate on procurement and become simply a lending guarantee institution. We protested her attitude and demanded, and eventually received, her resignation. As time went by it appears that her forecast has slowly taken form. It was in the late 1990's that SDB contracting with the federal government was dropping at a rate of \$1 billion per year. In the early 2000's, it started to take a miraculous turn upwards. However, that appears to be due to misrepresentation, fraudulent reporting and a skyrocketing increase in Alaska Native Corporation activity. Minority businesses in the lower 48 states have been decimated in direct government contracting and subcontracting.

As a current example, the SDB contract participation in the Gulf Rebuilding seems to be approaching \$400 million in contracts to Black firms in forecasts. The activity of the NBCC in Southeastern Louisiana alone will account for over \$1 billion. I never would have thought that our fledgling organization would be able to produce more contractual dollars to the African American community than the Small Business Administration as it represents the federal government. While that is something we can boast about it is also a graphic description of how inept the SBA has become. That \$400 million would not have been realized if the NBCC didn't cry "fowl" to the Honorable Bennie Thompson, Chair of the Homeland Security Committee. FEMA jumped and we had \$400 million – the SBA isn't responsible for any of that.

Today, the SBA is void of exposure. There appears to be no federal agency liaison. There is no outreach. My local chapters for the most part do not know who runs their local district office of the SBA or where it is located. Most local Black chambers and their members have not seen an SBA representative since the turn of this century. District Directors, Business Opportunity Specialists, PCR, PTAC's, etc. – WHERE ARE THEY? I would say they are endangered species but it appears they for the most part are actually gone all together. If you want to do business with a federal agency you had better find a way to approach them directly. Firms who aren't disadvantaged are finding

that you hire a good lobbyist. Unfortunately, our membership cannot afford that luxury so we are finding other avenues.

We are instructing our chapters to encourage their members to pursue, as an alternative to the SBA, federal dollars that are directly distributed to state agencies such as HUD and USDOT funding. The primary source of contracting for our members in New Orleans is through the Housing Authority of New Orleans and other local entities receiving HUD monies. We have an excellent model in pursuing contracts with USDOT grants through state managed procurements in Illinois. All of our construction members in central and downstate Illinois are working at 100%+ capacity on highway construction work. The Illinois State Black Chamber of Commerce has been awarded two Technical Assistance grants (\$1 million+) by IDOT for their work in this area. Our reputation is such that the State of Ohio has appropriated \$1.2 million in grants to fund two additional Black chambers within their state to help inspire economic development in African American communities. The nation is starting to find alternatives to the SBA and that is a “sweet ‘n sour” state of affairs.

We are currently testing the utilization of partnerships with Alaska Native Corporations. The ANC’s provide us with the technical assistance we cannot get from the SBA and also can do an adequate job in hunting down contract opportunities. The first test was with a special procurement with the Army Corps of Engineers in the Gulf. Our member, an 8a firm, and the ANC met with the Corps and identified an opportunity. The only obstacle to this was the local SBA office which became adversarial about the whole contract idea. We dug in our “heels” and the SBA eventually relented. Question: Why would the SBA be opposed to our 8a firm doing business with the Corps, even if it was with an ANC? What has become of the role of the SBA? We will expand our experiment with the ANC’s (certain, select ANC’s).

Another problem, and perhaps the most severe, is with the 8a certification process. Some of our members are having difficulty getting their 8a applications processed within the designated 45 days. I have one member from New Orleans who waited over 7 months with this process only to be told that he “was not socially or economically disadvantaged” and was “too dependent on one client”. I think it is hard to imagine a victim of the Katrina disaster not being economically disadvantaged and a lifetime resident of inner city New Orleans not being socially disadvantaged. The main reason he wanted to be in the 8a program was to attract new clients such as agencies of the federal government.

At the same time that our members are experiencing delays in the 8a process, we have “8a mills” operating around the DC area. These are “consultants” who assist a fledging minority business owner in applying for 8a status all the while assuring them it will take “2 to 3 weeks through our connections”. After they are granted 8a status the “consultant” has the business change its address to a place that will give them HUBZone status on top of the 8a classification. They will then execute a “hand shake agreement” that supercedes the information on the 8a application. They will manage the business with their project managers and run the business like any white male owned company. The federal

contracts come in one after another from a particular federal agency which gets credit for 8a participation and the sham takes over. This merits an investigation.

In addition to the above shameful activity, we have “super stars” which get into the 8a program and instantly become billion dollar contractors. Having little background or financing, as they are socially and economically disadvantaged, they miraculously become rivals in success to Bob Johnson, of BET, through simple federal contracting. Something sticks out like a sore thumb here and begs for investigation.

In essence, the NBCC is not going to sit around and lament about the good ‘ol days. We are moving on and finding ways to serve our constituency. But wouldn’t it be admirable if the SBA could be revived to where it once was. We support your efforts in making this happen and pray for your success.

STATEMENT OF
RONALD F. CHAMRIN, ASSISTANT DIRECTOR
ECONOMIC COMMISSION
THE AMERICAN LEGION
BEFORE THE
COMMITTEE ON SMALL BUSINESS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
SMALL BUSINESS ADMINISTRATION'S CONTRACTING PROGRAMS
SEPTEMBER 19, 2007

Madam Chairwoman and Members of the Committee:

Thank you for this opportunity to present The American Legion's view on the Small Business Administration's Contracting Programs in relation to veterans.

Veteran And Service Disabled Veteran Owned Businesses

The American Legion views small businesses as the backbone of the American economy. It is the driving force behind America's past economic growth and will continue to be the major factor as we move further into the 21st century. Currently, more than nine out of every ten businesses are small firms, which produce almost one-half of the Gross National Product. Veterans' benefits have always included assistance in creating and operating veteran owned small businesses.

The impact of deployment on self-employed Reservists is severe with a reported 40 percent of all veteran owned businesses suffering financial losses and in some cases bankruptcies. Many small businesses have discovered they are unable to operate, and suffer some form of financial loss when key employees are activated. The Congressional Budget Office, in a report titled, *"The Effects of Reserve Call-Ups on Civilian Employers,"* stated that it "expects that as many as 30,000 small businesses and 55,000 self-employed individuals may be more severely affected if their Reservist employee or owner is activated."

Additionally, the Office of Veterans' Business Development within the SBA remains crippled and ineffective due to a token funding of \$750,000 per year. This amount, which is less than the office supply budget for the SBA, is expected to support an entire nation of veteran entrepreneurs. The American Legion feels that this pittance is an insult to American veteran business owners, that it undermines the spirit and intent of Public Law 106-50, and it continues to be a source of embarrassment for this country.

The American Legion strongly supports increased funding of the Small Business Administration's Office of Veterans' Business Development to provide enhanced outreach and community based assistance to veterans and self employed members of the Reserves and National Guard.

Additionally, The American Legion supports allowing the Office of Veterans' Business Development to enter into contracts, grants, and cooperative agreements to further its outreach goals. The Office of Veterans' Business Development must be authorized to develop a nationwide community-based service delivery system specifically for veteran and members of Reserve components of the United States military.

The American Legion recommends that funding for the SBA Office of Veterans' Business Development be increased to 2 million dollars.

The National Veterans Business Development Corporation

Congress enacted the Veterans Entrepreneurship (TVC) and Small Business Development Act of 1999 (Public Law 106-50) to assist veteran and service-connected disabled veteran owned businesses by creating the National Veterans Business Development Corporation. Presently, the objectives of Public Law 106-50, as originally envisioned, are not being met at the present time due to the scope of the mission, staffing and funding requirements.

The American Legion believes that with limited funding and staffing, TVC should not try to replicate preexisting services such as those provided by the Small Business Development Centers (SBDC).

The American Legion recommends that the resource-training centers TVC is currently providing funding for be given to the jurisdiction of the SBA Veteran's Development Office.

The SBA's Veterans' Development Office is presently funding five such centers around the country and should be given the additional three. In addition, the SBA office should take on the responsibility of partnering with military and VA hospitals, TAP, State Department of Veterans Affairs Offices, Procurement Technical Assistance Centers, Military Family Support Centers, and veterans' service organizations to provide employment and entrepreneurship programs along with the addition of funding and necessary senior staff to oversee the implementation and development of such a program. TVC would operate more effectively acting as a liaison with existing associations of small business owners and, by working with SBA programs, ensure the involvement of private and successful military alumni from the business community to help support SBA's successful integration, and reintegration, of veteran and reserve component entrepreneurs into the private and public American marketplace.

The American Legion supports restructuring the National Veterans Business Development Corporation by changing the current chief executive officer position to a congressionally appointed director from the Senior Executive Service. This change would allow Congress greater oversight of expenditures and an enhanced ability to monitor performance. Finally, it will restrict the role of the Board of Directors to fund raising, marketing and branding, and will serve to increase small business opportunities to veterans.

The American Legion reiterates that the Small Business Administration's Office of Veterans' Business Development should be the lead agency to ensure that veterans returning from Iraq and Afghanistan are provided with Entrepreneurial Development Assistance. Comprehensive training should be handled by the SBA and augmented by TVC's on-line training. Resource Training Centers should include DOD and VA faculties.

Currently, many military families are suffering financial hardship while their loved ones are recuperating in military hospitals around the country. Many spouses leave their jobs to be with that disabled servicemember which results in financial ruin. Business development training is one key to a seamless transition for servicemembers. If business development training was offered to military members while still at a treatment facility, a small home-based business is feasible. A business could be the answer in guaranteeing a constant source of revenue for the family, in turn making them less dependent on Federal government compensation payments.

The Veterans Federal Procurement Opportunity

The American Legion has encouraged Congress to require reasonable "set-asides" of Federal procurements and contracts for businesses owned and operated by veterans. The American Legion supported legislation in the past that sought to add service-connected disabled veterans to the list of specified small business categories receiving 3 percent set-asides. Public Law 106-50, "The Veteran Entrepreneurship and Small Business Development Act of 1999," included veteran small businesses within Federal contracting and subcontracting goals for small business owners and within goals for the participation of small businesses in Federal procurement contracts.

Agency compliance with Public Law 106-50 has been minimal with only two agencies self-reporting that they have met their goals (The Department of Veterans Affairs and the Small Business Administration). In 2004, President Bush issued Executive Order 13360 to strengthen opportunities in Federal contracting for service-disabled veteran owned businesses.

Recommendations

1. Incorporate Executive Order 13360 into SBA Regulations and Standard Operating Procedures

The American Legion agrees with the recommendations given from the "SBA Advisory Committee on Veterans Business Affairs" FY 2006 SBA report;

- "The SBA needs to reemphasize implementation of Executive Order 13360 and establish it as a Federal procurement priority across the entire Federal sector. Federal agencies need to be held accountable, by the SBA, for their implementing Executive Order 13360 and their progress toward the 3 percent goal. The SBA needs to establish a means to monitor agencies progress and where appropriate, establish a vehicle to report or otherwise identify those that are not in compliance, and pursue ongoing follow-up."
- "To achieve the SDVOSB procurement goal contained in Executive Order 13360, the SBA must identify all agencies affected by the Executive Order under the directive of Congress. Then the SBA should assist these agencies to develop a demonstrable,

measured strategic plan and establish realistic reporting criteria. Once the information is received, SBA should disseminate this data to all agencies, Veterans Service Organizations and post its findings on the SBA website as a bellwether of program progress.”

2. Change to Sole Source Contracting Methods

To provide parity among special emphasis procurement programs, the SBA should take immediate, appropriate steps to promulgate regulations to revise 13 CFR 125.20. The proposed revision would eliminate existing restrictions on the award of sole source contracts to SDVOSB such as the “Rule of Two”. The change should mirror 13 CFR 124.508 part c which applies to 8(a) Program participants and states, “In order to be eligible to receive a sole source 8(a) contract, a firm must be a current participant on the date of the award...” Accordingly, adopting this language would eliminate all restrictions on sole source awards to SDVOSBs.

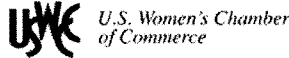
3. Develop a User Friendly Veteran Procurement Database

The American Legion also supports that the Federal government and DOD utilize its available technology to create, fund and support a veteran procurement-spending database within DOD. This action will finally put veteran-owned and service-disabled veteran-owned businesses on equal footing with all other small business special interest groups as regards Federal procurement opportunities.

CONCLUSION

The mission of The American Legion’s National Economics Commission is to take actions that affect the economic well being of veterans, including issues relating to veterans’ employment, home loans, vocational rehabilitation, homelessness and small business. The American Legion reiterates that the Small Business Administration’s office of Veterans’ Business Development should be the lead agency to ensure that veterans returning from Iraq and Afghanistan are provided with Entrepreneurial Development Assistance.

The American Legion looks forward to continue working with the Committee to enhance veteran entrepreneurship. Madam Chairwoman and Members of the Committee, this concludes my testimony.



**Testimony
of
Margot Dorfman
Before the House Small Business Committee
On the Small Business Administration's Contracting Programs
September, 2007**

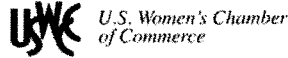
Chairman Velazquez, Ranking Member Chabot, and members of the House Small Business Committee, my name is Margot Dorfman. I am the CEO of the U.S. Women's Chamber of Commerce (USWCC). I am here today representing the millions of American women business owners seeking your urgent assistance.

I have spoken to this committee several times over the last few years seeking to increase the access to federal contracts for women-owned businesses and most specifically to engage your assistance to compel the Small Business Administration to implement the Equity in Contracting for Women Act of 2000.

In 2000, Congress realized the gross underrepresentation of women businesses in federal contracting had to end and set a course to establish a set-aside program to reach women's businesses in underrepresented industries. Through a bi-partisan effort, Congress passed the Equity in Contracting for Women Act of 2000 on December 21, 2000. This Act was to give agencies the ability to limit certain competitions to women-owned small businesses. It required the Small Business Administration (SBA) to (1) "conduct a study to identify industries in which small business concerns owned and controlled by women are underrepresented with respect to Federal procurement contracting" and (2) establish procedures to verify eligibility to participate in the procurement program.

And now, 2463 days after the signing of this legislation into law, the SBA has still not implemented this important program. The U.S. Women's Chamber of Commerce filed a claim against the SBA for failure to implement this law. The Court agreed that the SBA had not effectively served the will of Congress and stated in its finding that the SBA had "sabotaged" the implementation of the program. The Court demanded a timeline for implementation – which the SBA provided and then failed to meet.

First let me address why this program is so urgently needed. It is very important for our Congressional leaders to get beyond the marketing hype about women business owners and understand the economic realities for women in business.



We read endlessly about the huge growth in women-owned businesses from marketers seeking to sell to women. But, marketers pick and choose the numbers that make for nice stories to enhance their advertising sales or political position. One favorite hyped-up headline states, "Over the last decade, women-owned businesses grew 42.3%." The real story is that, while the number of women-owned businesses grew over forty percent, their annual revenues grew only 4.4%. The important headline should be, "Over the last decade, the average women's business revenue dropped 36%."

One of the reasons women businesses are not seeing stronger growth is the devastating failure of the federal government to provide fair competitive opportunities for women-owned firms. Without access to government contracting opportunities, women business owners are struggling to get the traction they need to grow their businesses and increase their capacity.

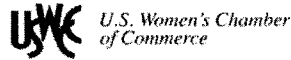
Remarkably, even though women own nearly one third of all businesses in America, we received only 3.4% of the 2006 total federal contracting dollars. The loss in revenues to women-owned businesses averages between five to six billion dollars annually. This is a travesty that Congress sought to address back in the year 2000 – but the SBA sabotaged your efforts.

Even today, after 2463 have passed, the SBA still is not ready to implement this important program and has even signaled that they may only implement a very, very narrow version of the program. We have heard from many confidential sources that the SBA plans to ignore the recommendations provided by the National Academy of Sciences and select only a very narrow set of industries to participate in this program. Clearly, if the SBA takes this action, the intent of Congress will not be fulfilled and women business owners will not receive increased access to contracts.

Let me explain the three step process the SBA has taken towards establishing the industries that qualify for underrepresented status. Step one was a study done by the SBA. Step two was a study completed by the National Academy of Sciences. And step three was a study completed by the Rand Corporation.

STEP ONE

In 2002 the SBA Office of Federal Contract Assistance for Women Business Owners (CAWBO) prepared a draft study containing a preliminary set of estimates of representation of women-owned small businesses in federal prime contracts over \$25,000 by industry.



STEP TWO

The SBA asked the National Academy of Sciences (NAS) to conduct an independent review of relevant data and estimation methods prior to finalizing the CAWBO study.

NAS recommended the preparation of four data sets using measurement options of contract dollars and actions, as well as the whole universe of women-owned small businesses vs. only those listed in CCR.

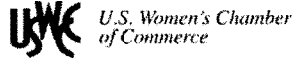
With regard to the relevant data and estimation methods, NAS made eight recommendations. Their sixth recommendation is entitled, "Clear Cases of Underrepresentation." The NAS states, "Because almost any data source and measure of disparity will be subject to errors and because stakeholder views of appropriate disparity measures may differ according to their views on the usefulness and appropriateness of preferential contracting programs, it is unlikely that a single disparity measure will go unchallenged. We recommend that CAWBO identify industry groups for which more than one disparity measure finds underrepresentation using a disparity ratio of 0.80 or less."

Clearly, the NAS recommends that if an industry is found within more than one of the four disparity measurement tables, it may be deemed underrepresented.

The National Academies also makes clear why it is important to look at a diverse picture of underrepresentation rather than narrowly at only one view. Their report states, "Evidence of large and persistent differences, or disparities, in economic outcomes among men and women in the United States is not hard to find. Differences in purchasing methods cause differences between different agencies – making it important to look at both contract actions and dollar amounts."

NAS goes on to say, "Shares in terms of dollars and actions are similar for many cabinet departments, but there are exceptions. Notably, the Department of Energy in fiscal year 2003 exhibited a relatively high share of contract actions going to women-owned small businesses (15 percent), but the share of its contract dollars awarded to women-owned small businesses was only 0.5 percent. This finding presumably reflects the fact that this department has a small number of very large contracts for its laboratories, which are neither bid on nor won by small businesses.

"Because the distribution of contract awards by dollar value may be highly skewed for some agencies, time periods, or industries, a careful analysis of utilization estimates should determine their sensitivity to outliers and whether some contract awards should be excluded from the estimation.

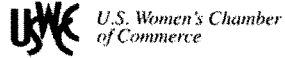


"For example, the distribution of prime contract dollars awarded by the Defense Department for fiscal year 2004 (data not yet available) may be skewed upward by the small number of very large contracts awarded for military support operations and reconstruction in Iraq."

The point the NAS makes is that the SBA should not narrow the selection of industries severely, as differences in purchasing methods and contract sizes across agencies vary.

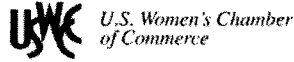
STEP THREE

Using the guidance provided by the NAS, the Rand Corporation was asked to prepare the data to create the four views of underrepresentation. Based on the guidelines provided by the NAS workgroup, the SBA should select industries that appear on "more than one" of the disparity measurement tables. I have prepared a chart detailing the industries that meet this standard.



Industry groups for which MORE THAN ONE disparity measure finds underrepresentation (appears in *at least two* of the four tables)

2-Digit Code	Industry	<i>"Industry groups for which more than one disparity measure finds underrepresentation."</i>
11	Forestry	
21	Mining	
22	Utilities	Substantially Underrepresented
23	Construction	
31	Manufacturing	Underrepresented
32	Manufacturing	Underrepresented
33	Manufacturing	Underrepresented
42	Wholesale trade	
44	Retail trade	Underrepresented
45	Retail trade	Underrepresented
48	Transportation and warehousing	Substantially Underrepresented
49	Transportation and warehousing	Substantially Underrepresented
51	Information	Substantially Underrepresented
52	Finance and insurance	Substantially Underrepresented
53	Real estate	Underrepresented
54	Prof., sci., and tech. services	Substantially Underrepresented
56	Admin. and waste management services	Substantially Underrepresented
61	Educational services	Substantially Underrepresented
62	Health care and social assistance	Underrepresented
71	Arts and recreation	
72	Accom. and food services	Underrepresented
81	Other services (except public administration)	Substantially Underrepresented



I strongly urge you to now make sure the SBA does not continue to sabotage the implementation of the program you designed to provide increased access to federal contracts for women-owned small businesses. Hold the SBA accountable. They have everything they need to finally implement this important program. The NAS study told the SBA how to prepare the relevant data and estimation methods. The Rand study provided the relevant data. The next step is clear. The SBA should immediately implement this program for all industries that appear on more than one of the four data sets.

It has been 2463 since Congress took action to support women-owned businesses. Billions of dollars have been lost in opportunities for women in business. I call upon you today to do everything within your power to cause the SBA to implement the law as you intended it to be done.

Thank you.

Statement of
The Associated General Contractors of America
to the
Committee on Small Business
U.S. House of Representatives
For a hearing on
Small Business Administration Contracting Programs
September 19, 2007



Building Your Quality of Life

The Associated General Contractors of America (AGC) is the largest and oldest national construction trade association in the United States. AGC represents more than 32,000 firms, including 7,000 of America's leading general contractors, and over 12,000 specialty-contracting firms. Over 13,000 service providers and suppliers are associated with AGC through a nationwide network of chapters. AGC contractors are engaged in the construction of the nation's commercial buildings, shopping centers, factories, warehouses, highways, bridges, tunnels, airports, waterworks facilities, waste treatment facilities, dams, water conservation projects, defense facilities, multi-family housing projects, site preparation/utilities installation for housing development, and more.

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

2300 Wilson Boulevard, Suite 400 • Arlington, VA 22201 • Phone: (703) 548-3118 • FAX: (703) 548-3119

STATEMENT
OF
P.J. GOEL
COMMITTEE ON SMALL BUSINESS
TO THE
U.S. HOUSE OF REPRESENTATIVES
SEPTEMBER 19, 2007

AGC is pleased to share our thoughts for this year's upcoming reauthorization of the Small Business Act. My name is P.J. Goel and I am President of Goel Services, Inc. We specialize in construction, renovation, design/build construction, demolition, environmental remediation, mechanical insulation, wastewater studies and information technology and sales. We are certified as a small disadvantaged business enterprise by the SBA 8(a) program, Maryland Department of Transportation and Metropolitan Washington Airports Authority. We are also certified as a SBA HUBZone Certified Business Concern.

Today I am going to focus on the changes AGC recommends for the HUBZone program and the growing concern over large construction contract awards to Alaska Native Corporations. I would like to thank Chairwoman Velazquez and the Members of the Committee for allowing me the opportunity to provide a realistic assessment of the effects of these important programs for construction contractors today.

HUBZone Program

AGC has significant concerns about the effectiveness and fairness of the HUBZone program as it is applied to the construction industry. The program does not realize its goal of increasing employment and reinvesting in economically disadvantaged areas. It does not address the issue of contractors who simply act as project brokers. It does not require the SBA to measure the successes and failures of the program. Finally, it does not fairly reward firms in a manner consistent with the Federal construction market. I should add that with the exception of the Office of Advocacy, our industry has had no success in getting SBA's attention or interest in examining our concerns, much less the effectiveness of the program. I would now like to offer several suggestions for improving the program Congress intended.

Limit the Program to Construction Projects in or Near a HUBZone. The HUBZone program should apply only to contracts for the construction of federal projects within a 150-mile radius of the HUBZone contractor's principal place of business. Only those projects can offer employment to a significant number of HUBZone residents, and only those projects can promise to make a lasting change in their economic circumstance.

Unlike contracts for commercial items and manufactured goods, application of the HUBZone program to include construction projects only encourages brokering - merely acting as an "agent" to get someone else to perform the work. While the HUBZone

concept has merit in its intent to encourage economic development within a historically underutilized and economically disadvantaged community, the concept does not necessarily work the same for services such as those offered in the construction industry.

Change the HUBZone Self-Certification Process. Currently, HUBZone businesses are required to self-certify to the SBA that they meet the criteria for a HUBZone business. It is a simple matter of registering the business through the Central Contractor Registry (CCR), filling out a self-disclosure form to the SBA and checking a box stating that you are a HUBZone business - all with no additional oversight by the SBA.

Congress should require the SBA to revise the self-certification process by requiring HUBZone companies to file annual reports certifying their annual sales and affiliations, including partnerships with large firms performing subcontract work for the HUBZone business. The burden of challenging a contractor's HUBZone status is left to competitors who wish to file a protest with the SBA or GAO after a bid. The protest process is costly for the firm making the challenge because legal fees can be significant. It is also costly for the contracting agency because the protests create delays in the final contract award, which in turn creates delays in contract completion. The SBA must take measures to ensure the integrity of the program.

Require the SBA to Routinely Investigate Alleged Abuses of the Program. Some construction contractors have found the SBA to be indifferent to their complaints when individual firms are violating the terms or conditions of the HUBZone program. The SBA should require their regional offices to investigate such complaints and publicly report their findings and decisions in the Federal Register within a reasonable period of time.

Congress should authorize and require a smaller price preference apply to the construction industry. While Congress may want to give HUBZone contractors an advantage, it should be an advantage that reflects the realities of the market. At most, Congress should give the construction contractors in the HUBZone program no more than a five percent bid preference. Industry profit margins on Federal projects tend to run to a maximum of two or three percent on average largely due to a very competitive market place, so a bid preference of five percent would still exceed the profit margin on the vast majority of federal construction contracts. While some believe the current price preference gives HUBZone contractors a fair advantage, a ten percent preference for the construction industry is a windfall, not an advantage.

Alaska Native Contracting

Over the last few years the volume of complaints we receive from our members about the growing reliance on the use of Alaskan Native Corporations (ANCs) by Federal agencies as a contracting vehicle to easily attain small business contracting goals continues to increase. The fact of the matter is that in today's Federal contracting market, ANCs have extraordinary special preferences that significantly reduce federal contracting opportunities for traditional small businesses.

Some ANCs have taken excessive advantage of their special benefits to obtain multi-million dollar sole-source government contracts. In April 2006, the General Accounting Office issued a report demonstrating how ANCs have been using the SBA program, reporting that:

- Awards to ANCs went from \$265 million in FY 2000 to \$1.1 billion in FY2004
- By 2005, ANC contracting dollars had more than doubled to \$2.4 billion, and;
- Between FY 2000 to FY 2004, 77 percent of ANC contracts were sole source awards.

The SBA must better track the growth of ANCs. While the GAO report states that this program is fulfilling its purpose, it is clear that the SBA must improve its management and oversight of the program. Congress should encourage SBA to examine the impact these preferences have had on other disadvantaged groups, not to mention the inefficiencies in government contracting and the cost to taxpayers. The GAO proposed better compliance through monitoring performance, tightening controls on subcontracting, and ensuring that an ANC owns only one subsidiary that generates revenue within a primary industry. SBA must quickly work to implement these suggestions.

Given the accelerated increase of contract awards and the special preferences awarded to ANCs, we recommend that Congress apply the rules of the 8(a) program to ANCs.

Conclusion

I would also like to thank Chairwoman Velazquez for her strong leadership on these very important issues and for the opportunity to testify on our recommendations for improving these critical contracting programs. AGC looks forward to working with the committee on balancing the needs of the federal government's procurement system and creating an environment in which construction contractors can compete on a level playing field and continue to work to improve the quality of federal construction delivered to the owner – the Federal government and ultimately the American taxpayer.

Testimony of Ronald Newlan, Chairman, HUBZone Contractors National Council

US House of Representatives Committee on Small Business

Hearing on

SBA Contracting Programs

September 19, 2007

Chairwoman Velázquez, Ranking Member Chabot, distinguished members of the Committee, thank you for inviting me here today. For those I have not met, I am Ron Newlan, the Chairman of the HUBZone Contractors National Council (HCNC). Our Council is the only national trade association that focuses exclusively on expanding the implementation of the Federal HUBZone contracting program.

I am honored to be here today to present to you our Council's views on the current status of the SBA's HUBZone Program.

A HUBZone is an area of our nation that has high unemployment or low household income or both. Today, nearly 37 million Americans live in poverty. There is a strong correlation between the locations of America's HUBZones and the locations where these 37 million impoverished Americans live.

This Program was designed to create good jobs where America needs jobs the most. The Program creates these jobs by offering competitively awarded Federal contract opportunities to small businesses that locate in a HUBZone and hire employees who live in these HUBZones. Awarding Federal procurements to HUBZone firms is good public policy for several reasons. Firstly, awards under the Program are almost always based on competition so the Government receives the advantages of competitive pricing. Secondly, each HUBZone firm must have its largest office in a HUBZone—this stimulates the economic development in these zones of poverty. Thirdly, at least 35% of each HUBZone firm's employees must live in a HUBZone. In many instances, these employees, before being hired by a HUBZone firm, were drawing unemployment and/or welfare...so this is a double win—we move the unemployed or the welfare recipient back to the rolls of productive tax-paying employees.

The HUBZone Program was very well designed and I thank all of the members of this Committee for your support of the Program over the past decade.

Today, there are nearly 13,000 HUBZone firms—their collective annual revenues exceed \$ 25 billion. If they were collectively ranked, they would be ranked #90 on the Fortune 500 list—larger than General Dynamics or Coca-Cola! Our resources, as a HUBZone community, are vast. For example in the District represented by Chairwoman Velázquez, New York's 12th District, I estimate that approximately 25% of the District has been classified as a HUBZone. In the 12th District, there are 9 certified HUBZone firms and they employ approximately 200 people. In Ohio's 1st District, Represented by the Committee's Ranking Member Chabot, a large majority of the geographical area in and around Cincinnati has been classified as a HUBZone.

Ranking Member Chabot's District has 24 certified HUBZone firms that employ more than 1,500 people! In Texas' 20th District represented by Congressman Gonzalez, there are more than 85 certified HUBZone firms and these firms create more than 1,500 jobs annually in the District!

Within the federal contracting small business sector, we are a large and robust small business community--there are more HUBZone certified firms than there are small disadvantaged businesses, 8(a) firms, or service disabled veteran-owned firms.

Unfortunately, this well designed Program has been very poorly implemented by the Federal Agencies that buy America's goods and services.

The HUBZone statute sets a goal for HUBZone contracting at 3% of total Federal contracting dollars. Despite the large size of our HUBZone contractor community, the Federal Government has never come close to meeting this 3% level. In FY 2005, the Government achieved 1.94%--and in FY 2006 the Government achieved 2.1%.

If I had to attribute the Program's lack of success to one thing, I would attribute it to the procurement community's reluctance to change their methods of doing business. For every one HUBZone set-aside competition conducted in FY 2005, there were 78 small business set-aside competitions conducted. Yet, the statutes and regulations are clear--the HUBZone Program is a higher priority program than the small business set-aside program.

The HUBZone statute and current regulations require a contract to be set-aside for HUBZone competition when a contracting officer has a reasonable expectation of receiving two or more offers from HUBZone firms and if the award can be made at a reasonable price. This is referred to as the HUBZone Rule of 2. It is very disappointing to see how often the procurement community ignores this Rule of 2 and conducts tens of thousands of procurements each year outside of the HUBZone set-aside program that should be awarded using HUBZone set-aside procedures. If current regulations were followed by the Federal contracting community, more than a hundred thousand jobs could be created annually for America's poorest residents!

Now to make matters even worse, the House of Representatives has passed a bill, HR 1873, and sent it to the Senate. One aspect of this bill is to increase the contracting goals for small disadvantaged businesses and women-owned businesses to 8% annually. The House did not increase the HUBZone goal to 8%. If this was to become law, this would increase the emphasis on SDB and women-owned contracting at the expense of the HUBZone Program.

It is time for the Federal procurement community to follow the law. For the past 10 years far too many procurement officials have ignored the HUBZone statute. For the +36 million Americans who live below the poverty level, the time for action has arrived.

I ask this Committee to:

1. Convey to all Senior Officials and Federal procurement officials that the HUBZone Rule of 2 means what it says--when there are 2 or more qualified HUBZone firms...make the procurement a HUBZone set-aside!
2. Re-emphasize that the HUBZone Program has priority over the small business set-aside program--there should never again be 78 small business set-asides for every 1 HUBZone set-aside competition.

3. Ensure the SBA Headquarters HUBZone Program regains its budget line item status and appropriate no less than \$15 million annually so this hardworking SBA staff can create the tools required to ensure that the Federal Departments give the Program the emphasis that it deserves—for every dollar spent on this SBA budget line item the return to the taxpayers is many fold in reduced welfare payments, reduced unemployment payments, and increased income taxes paid.
4. Increase the oversight of any Department that fails to meet the HUBZone minimum level set by the Congress.
5. Increase all small business program goals to 8%--or do not increase any of them--the HUBZone Program goal should not be ignored.

In closing, I would like to salute those Departments and Agencies who have proven that achieving HUBZone contracting goals is possible when senior leaders commit to the task and their procurement communities focus on goal accomplishment. The Departments of Agriculture and Interior each achieved 9 % in FY 2005. The Department of the Army achieved their 3% goal. HUD achieved 6% and the GSA achieved 4% in FY 2005.

The table below highlights the major Departments that exceeded the 3% HUBZone goal for FY 2006.

Department	Percentage
Homeland Security	3.2
Veterans Affairs	3.2
General Services Administration	4.8
Agriculture	9.1
Interior	9.9
Transportation	7.5
Housing & Urban Development	4.2
Small Business Administration	9.9
All Government Total	2.1

Thank you for the opportunity to bring these urgent matters to your attention.

TESTIMONY OF DR. TREVOR BROWN
 ASSOCIATE PROFESSOR
 THE OHIO STATE UNIVERSITY
 JOHN GLENN SCHOOL OF PUBLIC AFFAIRS
 BEFORE THE HOUSE COMMITTEE ON SMALL BUSINESS
 SEPTEMBER 19, 2007

Chairwoman Velazquez, ranking minority member Chabot, and honored members of the House Committee on Small Business, thank you for the opportunity to share my thoughts about the Small Business Administration's (SBA) contracting programs.

As a professor in the John Glenn School of Public Affairs at the Ohio State University I study government contracting and contract management. My research examines why governments decide to contract for some services and not for others, and perhaps more importantly, what investments governments make in the capacity to manage contracts once they have been let. In addition, I am a participant in the government contracting process, having been involved in the management of a cooperative agreement with the U.S. Agency for International Development on behalf of a large public university – Indiana University – since the mid 1990s.

This morning I am going to offer my professional opinions on some of the SBA's contract requirements. In particular, I am concerned that the increased push to further limit combining multiple tasks into a single contract vehicle – sometimes referred to as “contract consolidation” or “contract bundling” – will inhibit federal procurement personnel from maximizing public value, and will have unseen costs that outweigh the observable benefits.

The Challenge of Balancing “Public Value” with Small Business Goals in Public Procurement

I think everyone would agree that government agencies should target two primary goals when they turn to the market: first, the procurement of high quality goods and services, and, second, purchasing those goods and services at the lowest possible cost. The problem is that these two objectives may at times be in conflict with each other. Lower costs may undermine the quality of procured goods and services. Reflecting on the launch of his mission to orbit the earth, former Senator, U.S. astronaut, and patron of the school where I teach, John Glenn replied: “All I could think about was that the two million parts I was sitting in were built by the lowest bidder.” Senator Glenn's seemingly prosaic thoughts as he hurtled through space starkly illustrate the challenges faced by public sector procurement personnel: how to use purchasing to deliver high quality goods and services at the lowest possible cost? As a tax payer, this is exactly the question I want federal government procurement personnel focused on.

Fortunately federal procurement policy and practice has evolved since Senator Glenn's first days in space when procurement personnel were mandated to focus on cost, and cost

alone. Now, federal procurement personnel have been given more flexibility and discretion to balance cost and quality. For example, the Federal Acquisition Regulations now allow the use of vendor past performance as a decision criteria in contracting decisions. This is a significant and profound improvement in procurement regulations, modernizing what had for too long been an antiquated practice.

Over the years additional requirements have been layered on top of the basic cost-and-quality calculus. High on the list of those requirements are goals, preferences, and set-asides for targeted classes of organizations – minority-owned firms, veteran-owned firms, female-owned firms, and of central importance for this Committee, small businesses. From the perspective of this Committee, taking steps to ensure government agencies utilize small businesses in procurements – for example by raising the proportion of prime contracts agencies must award to small businesses from 23% to 30% as proposed in the Small Business Fairness in Contract Act [H.R. 1873] – is an admirable goal. The SBA data clearly show the important role small businesses play in the American economy – they are engines of employment and growth.¹ These facts are well known by the Committee.

However, the more goals, preferences, set asides, and associated requirements that are layered into the procurement process, the more difficult it becomes for federal procurement personnel to achieve the best balance between cost and quality. This is the case for several reasons. To begin, these preferences result in several important negative unintended consequences. For one, small businesses that rely on federal contracts as a source of revenues face a disincentive to grow larger as they will ultimately lose the preferential treatment they receive for being small.² We all lose if the strongest, most efficient and best run businesses are not rewarded and encouraged to grow. In addition, larger firms have an incentive to purchase or collude with smaller firms in order to take advantage of the benefits afforded to small businesses. In some cases small firms become fronts for big firms. As the members of this Committee know, a task of increasing importance for SBA personnel is to certify that the vendors that receive small business preferences are in fact “small” businesses.³

Increases in small business participation goals and increased effort to certify small vendors as small businesses adds another set of burdens to an already stretched federal contract management workforce, raises the costs of procurement, and ultimately inhibits the ability of contract managers to optimize public value for tax payers. The federal government devotes significant time and effort towards meeting small business contracting goals and ensuring that the contract recipients are certified. Much of the testimony from small business representatives before this Committee has been requests for adequate staffing resources for the SBA, particularly increasing the number of

¹ See the Small Business Administration’s Office of Advocacy document *Frequently Asked Questions* (<http://www.sba.gov/advo/stats/sbfaq.pdf>)

² See for example the testimony of Ms. Christina Schneiber Chief Financial Officer Purcell Contracting Corporation to the Subcommittee on Regulatory Reform and Oversight, House Small Business Committee, Thursday, March 30, 2006.

³ See for example 2003 GAO Report No. 03-704T. *Reporting of Small Business Contract Awards Does Not Reflect Current Business Size.*

Procurement Center Representatives (PCR).⁴ Such requests reflect the need to ensure that the goals are achieved and requirements are met. But these goals and requirements also impact the decision making of contract personnel in the agencies that let the contracts. Increased requirements, and the increased oversight and scrutiny that follow, will cause procurement personnel to focus more on the maze of rules and regulations at the expense of maximizing public value in contract decisions.

Contract Bundling and Contract Consolidation

This tension between maximizing public value and taking steps to ensure robust participation of small businesses in federal procurement is perhaps most apparent in the SBA requirements restricting the combining of previously independent task requirements into larger procurements, pejoratively called “contract bundling,” but more positively referred to as “contract consolidation” or “strategic sourcing.”⁵ As the Committee is well aware, “contract consolidation” increased considerably after Congress passed the Federal Acquisition Streamlining Act in the mid-1990s. There are good reasons for this increase. Combining task requirements into a single contract has much to recommend. It can lead to reduced costs as a result of price competition among larger firms or as a result of scale economies – why should agencies and the American tax payers that fund them pay retail for a good or service when they can purchase wholesale? “Contract consolidation” can also increase the government’s leverage over vendors. Private firms routinely use bulk purchasing to manage their supply chains. For example, the Swedish retail giant IKEA is renowned for using purchasing power to compel suppliers to use environmentally friendly production practices. In Ohio, public organizations also recognize this power. The Northeast Ohio Sourcing Office, a council of governments in the Cleveland area, with local governments, special districts and other public organizations to pool their purchasing to ensure they receive high quality services at the lowest possible cost. Some federal agencies, like the Department of Homeland Security, the Department of Defense, and the Department of Energy, are using “systems-of-systems” contracts for highly complex tasks in which responsibility for designing, building, and integrating processes and assets into a coherent system is contracted to a private sector “lead systems integrator.” The upside of the systems-of-systems contracting approach is access to highly technical capacity and expertise not available in-house, along with stimulated innovation through competitive bidding, and reduced procurement management costs.

Consolidation of tasks into a single contract can, however, have detrimental impacts on small businesses. A growing body of research shows that bulk purchasing is a primary

⁴ See e.g. testimony of Ms. Catherine Giordano, President of Knowledge Information Systems, Inc. and testimony of Ms. Christina Schneiber, Chief Financial Officer Purcell Contracting Corporation to the Subcommittee on Regulatory Reform and Oversight, House Small Business Committee, Thursday, March 30, 2006.

⁵ According to 15 USC 632(o)(2); FAR 2.101; 13 CFR 123.2 (d), contract bundling refers to “consolidation of two or more procurement requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small business.”

barrier to small business participation in government contracting as a prime contractor. On this point there is little debate. Individual small businesses are unlikely to win bids for many “bundled” contracts. The goal of helping small businesses compete for federal contracts was an important rationale for the of restrictions on bundling enacted in 2002, the passage this year in the House of the Small Business Fairness in Contract Act, and your increased oversight of the SBA’s implementation of the new rules.

Clearly, the question of contract bundling sits at the center of the tension between providing procurement personnel the flexibility to optimize cost and quality and the goal of trying to ensure the equitable participation of small businesses in federal procurements. I am concerned, though, that the trend is toward excessive “policing”, which comes at the expense of public value in federal procurement.

Finding a Balance between Public Value and Small Business Participation in Federal Procurements

As members of this Committee, you are chiefly concerned with the plight of small businesses. I propose that as you continue to make changes to the federal procurement process, you also assess the impact of your decisions on the ability of federal procurement personnel to deliver public value to American tax payers. My own experience and research suggest that a balance can be achieved between small business participation and providing federal procurement personnel with the tools and the discretion to optimize cost and quality. This does not have to be a zero-sum trade-off.

In moving forward – perhaps in conference committee should the Small Business Fairness in Contract Act pass the Senate or through the appropriations process for the SBA – I strongly encourage the House Small Business Committee to try to identify ways to achieve your goal of maximizing small business participation in the procurement process without unduly inhibiting the other goal of achieving best public value for the American tax payer. To that end I offer three specific recommendations that focus on increasing the capacity of the federal procurement system to address both goals.

Enhance SBA Capacity to Facilitate rather than Police

As I noted earlier, about a year and a half ago, the Subcommittee on Regulatory Reform and Oversight of this committee held a hearing on the SBA’s Procurement Assistance Programs. A consistent recommendation from those that testified from the small business community was to increase SBA staff capacity, particularly by increasing the number of PCRs at small business procurement centers.⁶ Let me add my voice to that chorus. The SBA needs more staff and capacity. However, rather than hiring new PCRs to just focus on enforcement (e.g. seeking out instances of contract bundling and referring those cases to the GAO for review) I would recommend that the focus in recruiting and training new

⁶ See also 2000 GAO Report No. 00-82 *Small Businesses: Limited Information Available on Contract Bundling’s Extent and Effects*.

staff be to work with small businesses to navigate the federal procurement system (e.g. widely disbursing information on upcoming bids to the small business community; assisting small businesses in developing bid proposals). A focus on assisting small businesses instead of on enforcing “contract bundling” or certification requirements will still contribute positively to your overall goal – increasing small business participation in federal procurement – without unduly inhibiting attempts by contract officers in federal agencies to optimize public value.

Encourage Collaboration and Learning within the Procurement System

This focus on facilitation and collaboration should also extend to encouraging positive relationships between SBA PCRs and procurement personnel in the federal agencies that let the contracts. In the near term there will be a significant influx of federal procurement personnel. The Partnership for Public Service projects the need for more than 8300 contracting experts throughout the federal government by 2009.⁷ The more incoming SBA procurement personnel are able to develop constructive working relationships with new procurement personnel in the agencies that let contracts, the more likely that both groups of procurement personnel are to learn how best to assist small businesses and improve procurement practices in the contracting agencies. Again I recommend the focus be on facilitation, rather than enforcement. As the procurement workforce turnover through attrition and new hires, the Committee should encourage SBA personnel to glean lessons in success from federal agencies with extensive procurement experience. The Department of Defense, for example, has perhaps the best developed set of policies and procedures for achieving balance between pursuing public value through contract consolidation and adhering to requirements prohibiting contract bundling.⁸

Gather More Information on the Impact of Contract Bundling/Consolidation on Small Businesses and Public Value

In reviewing various reports and research on contract consolidation, I was struck by how little is known about the impact of consolidation on both public value and small business participation in federal procurement. As noted earlier, research is fairly clear that consolidation or bundling harms small businesses in their drive to serve as prime contractors, but my judgment of the impact of consolidation on small business participation as subcontractors is that we do not know a lot. Part of this may stem from the fact federal agencies remain confused about what types of consolidation are prohibited and what types are permitted.⁹ Part of the uncertainty also stems from the lack of available data on subcontracting. I am hopeful recent Congressional action to improve the quality of information in the Federal Procurement Data System (FPDS) scheduled to

⁷ Partnership for Public Service. 2007. *Where the Jobs Are: Mission Critical Opportunities for America*.

⁸ Department of Defense. *Benefit Analysis Guidebook: A Reference to Assist Department of Defense Acquisition Strategy Teams in Performing a Benefit Analysis before Bundling Contract Requirements*.

⁹ 2004 GAO Report No. 04-454 *Impact of Strategy to Mitigate Effect of Contract Bundling on Small Business Is Uncertain*

go into effect in January of 2008 will improve the knowledge base. To that end, this Committee should ensure that the data base also includes information on the role of small businesses in subcontract arrangements. Should this information be adequately covered in the next generation of the FPDS, it will also provide opportunities for a more complete analysis.

In conclusion, I want to thank the members of the Committee again for the opportunity to share my thoughts on the SBA's contracting requirements.

Increasing the Capacity of the Nation's Small Disadvantaged Businesses (SDBs)

**(A summary of findings submitted to the Small Business Committee of the
U.S. House of Representatives, September 11, 2007 Hearings)**

**Report Commissioned by the Congressional Black Caucus
Foundation**

Principal Researchers: Thomas D. Boston, Ph.D. and Linje R. Boston, M.S.



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Executive Summary

EuQuant (formerly Boston Research Group) was commissioned by the Congressional Black Caucus Foundation to conduct a comprehensive study of the Small Disadvantaged Business (SDB) Program run by the U.S. Small Business Administration. The report seeks to increase the national and global competitiveness of SDBs by offering recommendations that are designed to increase their capacity and success in federal procurement and in corporate supply chain relations. The primary recommendation is that the \$750,000 personal net worth ceiling of the SDB program should be adjusted so that participants can build greater capacity. By building greater capacity, SDBs are able to operate more successfully in the public and private sectors. Their greater success adds significant value to overall economic output and generates jobs, income, and wealth in the general economy and especially in underserved communities.

Background and Purpose

- The government's Small Disadvantaged Business (SDB) Program was established to help mitigate the effects of discrimination on the performance of businesses owned by minorities and other socially and economically disadvantaged individuals.
- This comprehensive report assesses the impact of the SDB Program on minority-owned businesses and examines the contribution of SDBs to national output and employment.
- A major section of the report is devoted to exploring how the SDB Program's \$750,000 personal net worth (PNW) ceiling affects SDBs.
- After determining that the PNW ceiling is too low and that it adversely affects the operation of SDBs, new program changes are proposed.

- The recommendations are designed to increase the capacity of SDBs so they will become more competitive in federal procurement and in corporate supply chains.¹
- The results are based on an examination of 47,254 Small Business Concerns (SBCs)² listed with the government's Central Contractor Registration (CCR) in 2006.

What the Reader can Expect

The report has thirteen sections. These sections describe the current status of minority-owned businesses, document the critical importance of government contracting to minority business viability, and examine the plight of more than 10,000 minority-owned SBCs that are listed in the CCR but have never participated in the SDB program. The report considers how the U.S. Supreme Court Adarand Decision has changed the SDB Program. It measures the impact of the SDB Program on minority business performance and analyzes how the \$750,000 PNW ceiling has affected SDB capacity. Finally, it estimates the influence of the SDB Program on national output and employment and it analyzes where minority and non-minority-owned firms are located in relation to the most distressed areas of central cities.

Findings³

¹ As used in this report, capacity is synonymous with the three-year average revenue of a firm.

² A Small Business Concern (SBC) means any for-profit business that meets the industry and employment size standards as determined by the Office of Small Business Standards of the Small Business Administration (See Federal Acquisition Regulation FAR 19.101, at: <http://acquisition.gov/far/current/html/FARTOCP19.html>). This report does not examine SBCs that register with CCR as Women-owned Small Business Concerns, Veteran-owned or Disabled Veteran-owned Small Business Concerns.

³ The study used regression analysis and decomposition analysis extensively to explain the differences in performance between minority-owned firms that never entered the SDB Program

In 2006, the SDB Program had an economic impact of \$5.5 billion on U.S. final demand and created over 124,000 jobs.

Minority-owned small businesses also contributed to the economic development of distressed central cities. In 2006, 31% of minority-owned businesses listed in CCR were located in high poverty areas of central cities as compared to 24% of non-minority-owned companies.⁴

In some central cities a very high percentage of minority-owned businesses were located in high poverty areas: In Baltimore (69%), Philadelphia (60%), Detroit (50%) and Boston (48%).

Despite the significant contribution that minority-owned businesses make to the U.S. economy, they still encounter large disparities in private sector business transactions. Consequently, they depend more heavily upon government contracting because access to government contracts is usually more equal than is access to private sector opportunities. While minority-owned businesses comprised 18% of all U.S. small businesses, they made up 35% of the 47,254 small businesses listed in CCR in 2006.

Between 2004 and 2006 the SDB program had a significant effect on the performance of SDB certified firms. The average revenue of SDBs was \$2.8 million greater than the average revenue of identical firms that did not participate in the SDB Program.

SDBs experienced an annual disparity in revenue of \$0.9 million in comparison to non-minority-owned small-business concerns with similar characteristics.

There were 10,513 minority-owned small businesses listed in CCR in 2006 that had never been SDB certified. These firms experienced the greatest disparities of all small businesses that sought federal government contracting.

The \$750,000 personal net worth (PNW) ceiling of the SDB Program has not been adjusted for inflation in nine years. Therefore, the current real value of the ceiling is

(10,513), active SDBs (6,758) and other small business concerns that were not minority-owned in 2006 (27,087). A multivariate propensity score matching procedure was used to measure performance differences between firms with identical characteristics that were SDBs and non-SDBs.

⁴ High poverty areas are defined as census tracts where poverty was 20% or greater in 2000.

\$558,070. Yet innovations in corporate supply chains and the increasing use of contract bundling in government procurement require SDBs to have greater capacity.

The capacity of SDBs and the personal net worth of their owners is closely related. When capacity increases by 10%, PNW increases by 4%. Therefore, if the PNW ceiling is too low, it is impossible for SDBs to reach their optimum capacity. In a marketplace free of discrimination we estimated that the average capacity of SDBs would be \$4.1 million. The current PNW ceiling prevents SDBs from achieving this average capacity.

A PNW ceiling that is set too low causes other economic hardships. For example, in February of 2007 seventeen firms were graduated out of the Georgia Department of Transportation Disadvantaged Business Enterprise Program when an audit revealed that their PNW surpassed the \$750,000 ceiling. We interviewed the owners of these firms and tracked their monthly financial performance. The owners felt that they were being penalized for being successful and they complained that very few corporations solicited or engaged their services after they were de-certified. They also stated that the low PNW ceiling had not allowed them to build sufficient bonding capacity to compete successfully as prime contractors. During the first five months of 2007, their average monthly revenue decreased by 45% in comparison to 2005 and 2006.

Many large businesses are incorrectly registered in CCR as small businesses. In a recent Congressional hearing, SBA Inspector General Eric Thorson stated that, "The number 1 management challenge facing the SBA is that large firms are receiving small business contracts and federal agencies are receiving credit for these awards."⁵ This report identified 442 companies registered as small businesses that exceeded the small-business size standard for their industry. In 2006, the average revenue of these 442 companies (\$172 million) was forty-four times larger than the average revenue of legitimate small business concerns.

⁵ Chapman, Lloyd. 2006. "SBA Reauthorization Lacks Provisions to stop Fraud and Abuse." American Small Business League, July 20, 2006:

Accessed at: <http://www.asbl.com/showmedia.php?id=275>

Recommendations

- 1) Increase the PNW ceiling for construction industries to \$979,000, for manufacturing industries to \$1,043,000 and for professional and scientific service industries to \$1,026,000. The PNW ceilings should be adjusted annually for inflation. In addition SDBs that exceed the PNW ceiling should be given a two year transition period during which they remain eligible to participate in the SDB Program.

The rationale for this recommendation

First, the current PNW ceiling has not been adjusted for inflation since it was established in 1998. If adjusted, the current PNW would be \$977,560. Second, the SDB Program was established to help mitigate the effects of discrimination. But it is very difficult for SDBs to achieve the capacity they would be expected to have in a non-discriminatory market because the PNW ceiling is too low and capacity and PNW are closely related. Third, the PNW regulation assumes that "one size fits all". Therefore, only one PNW ceiling has been set for all industries. This contrasts with small business size standards that are set for each industry. The single PNW ceiling does not take into consideration the level of capitalization required by different industries.⁶ Finally, when SDBs are "graduated" from the program unexpectedly because of the PNW ceiling, they face significant short-run decreases in revenue. For example recent data from the Georgia DOT indicated that when minority-owned firms were "graduated" from the DBE program because of an audit of PNW, their monthly revenue decreased by 45% during the first six months following their exit.

- 2) The SBA should establish race-neutral monitoring procedures for small minority-owned firms that are not SDB certified.

Rationale for the recommendation

First, it is important to know whether minority-owned firms have fair access to corporate supply

chains and government procurement in the absence of SDB mandates. Results of this study indicate that they do not. For example the 10,513 minority-owned small businesses listed in CCR that were not SDB certified in 2006 experienced the largest disparities in government procurement awards and supply chain utilization among all CCR firms. Second, it is important to know why so many minority-owned businesses are not SDB certified. Some owners have indicated that the costs and paperwork involved in certification are deterrents while others maintain that the benefits of the program have been greatly reduced over time. A revision should be made to Standard Form 295 (Summary Subcontract Report) by including a category to record the utilization of minority firms that are not SDBs. Additionally, improvements should be made to the way that corporations and government agencies report subcontracting data.

- 3) Reauthorize all preferential procurement benefits of SDB status including Price Evaluation Adjustment (designed to assist SDBs as prime contractors), Subcontracting Evaluation Factors and Monetary Subcontracting Incentives (designed to increase SDB subcontracting opportunities).

Rationale for the recommendation

First, SDBs add significant value to national output and employment. In 2006 SDBs added \$5.5 billion to U.S. final demand and created 124,000 jobs that would not have existed without the program. Second SDBs, in comparison to non-SDBs, add significantly to economic opportunity in high poverty areas of central cities. Therefore by reinstating SDB procurement incentives, the goals of the HUBZone Program will be reinforced.⁷ Third, SDBs still face significant inequality in business transactions. For example, SDBs experienced an annual disparity in revenue of \$0.9 million in comparison to non-minority-owned small-business

⁶ The research team was unable to determine why the initial PNW ceiling for the SDB program was set at \$750,000 and we did not have access to PNW data for non-SDBs. Therefore, we could not determine the industry specific PNW for all small businesses; but only for SDBs. As a result, we had to use the current PNW ceiling as our starting point for making an adjustment.

⁷ If enacted, H.R. 1873, Sec. 214 would provide financial support to conduct of a study on the "feasibility and desirability" of providing financial incentives to contractors for meeting subcontracting utilization goals. PEAs allowed SDBs to receive a price benefit of up to 10% in specified industries. They expired in 2004. The HUBZone Empowerment Contracting Program is part of the Small Business Reauthorization Act of 1997. It is designed to stimulate economic development and create jobs in hard-pressed urban and rural communities. Contracting preferences are given to small businesses that are located in a HUBZone and that hire employees who live in a HUBZone.

concerns with similar characteristics. Finally, the procurement benefits are a major incentive for participating in the SDB Program.

- 4) Existing regulations that penalize large businesses for self-certifying as small business concerns (SBCs) should be enforced more vigorously and new penalties should be established. Additionally, the SBA Inspector General should audit the CCR annually to identify and penalize firms that are inappropriately self-certified as SBCs.⁸

Rationale for the recommendation

Inaccurate self-certification has been cited as a growing problem that is adversely affecting small business opportunity. This report identified 442 companies, that exceeded the small-business size standard for their industry, registered as small businesses. The average revenue of these firms was \$172 million, which was forty-four times larger than the average revenue of legitimate small business concerns.

- 5) Additional studies are needed to further illuminate factors that may enhance the competitiveness of SDBs. These additional studies should examine:

- What happens to firms following their exit from the SDB Program;
- Ways of improving the global competitiveness of SDBs;
- The extent to which government procurement dollars are shifting from SDBs to other CCR groups;
- The relationship of PNW and firm capacity for non-minority-owned firms;
- The impact of the PNW ceiling on the ability to secure bonding, financing and supply chain opportunities; and, monitor the performance of minority-owned firms that are not-SDB certified.

⁸ House of Representative Bill H.R. 1873: "Small Business Fairness in Contracting Act" passed the House on May 10, 2007 and has been sent to the Senate for consideration. Sec. 301-303 of the bill contains language specifying penalties for large businesses that fraudulently certify as small business concerns.



Reforming Critical SBA Programs for Economic Vitality of Minority Small Businesses

Introduction

The Small Business Administration (SBA) is one of the key Federal agency assisting small and minority businesses in securing Federal government contracts and providing them access to capital for business development. Over the past several decades, the SBA has made great strides in fulfilling its commitment to small businesses around the country.

This includes overseeing the Federal government's goal of 23% participation in purchases of goods and services from the small business community and procured by the Federal government. Unfortunately, a host of challenges remain with respect to small business development.

It is encouraging to see Members of Congress renewing their focus on small business issues, including looking into reforms critical to the future of the SBA. This white paper provides identification and analysis of the current challenges affecting minority small business owners.

With pending legislation in both the Senate Committee on Small Business and Entrepreneurship and the House Small Business Committee, it is a positive sign that there is both recognition of the challenges confronted by small business and the recognition that there is room for improvement. Senator John Kerry, Chairman of the Senate Committee on Small Business and Entrepreneurship, recently held a hearing on Minority Entrepreneurship. This hearing brought to light some of the difficulties minority businesses face in the competitive contracting and global market.

Chairman Kerry's opening statement summed up the situation well: "The potential for small business growth and entrepreneurship has not been fully tapped, and there are barriers to entry that continue to exist." It is these barriers that must be addressed in order to have an effective reform of the SBA's programs.

Minority Business Under-representation

As Chairman Kerry said, "One of the nation's greatest assets is our diversity." This goes to the very heart of the issue as, in fact, only 18% of businesses in this country are owned by

minorities. This number stands in sharp contrast to the 32% of the population that minorities represent. Although Hispanics constitute 13.4% of the population of this country, Hispanic-owned businesses represent only 7.0% of the nearly 22.5 million privately held businesses in the United States.

Even more revealing is the vast disconnect between the gross sales and receipts of minority owned firms and those of the non-minority businesses. The nation's 22.5 million businesses grossed \$8.78 trillion in revenues in 2002, an average of \$391,000 per firm. Unfortunately, there is a large disparity between the average gross receipts of non-minority held firms - \$448,000 per firm - and minority firms - \$162,000 per firm. This clearly indicates that critically important agencies, such as the SBA, must bring the minority business community into full participation in the national economic system.

In 2007, Mr. Bill Miera, a board member of the U.S. Hispanic Chamber of Commerce, testified before the Senate Committee on Small Business and Entrepreneurship on problems that small and minority businesses are experiencing with the SBA and the 8(a) Federal contracting program. In his testimony, Mr. Miera recounted his own experiences in the Federal contracting arena.

In the course of its development, Mr. Miera's firm - Fiore Industries of Albuquerque, New Mexico - won two Federal Air Force contracts as prime contractor. He explained to the Committee that, in subsequent years, "High-level decision makers within the agency (the Air Force) decided to bundle our contract...and we were forced to work with the new prime contractor as a subcontractor. Then, we were entirely cut out of the picture by the prime contractor." Ultimately, it was this bundling decision by the Air Force that almost forced Mr. Miera's company out of business.

In recent years, when Mr. Miera attempted to secure the assistance of the local SBA office on various issues related to the development of his business, he was told that budget cuts, personnel downsizing, and transfers of field personnel to the SBA central office transfers made it impossible for SBA to render the requested technical assistance. Mr. Miera's story is the tip of the iceberg with the respect to problems of contract bundling and the lack of adequate SBA support. Mr. Miera's experience represents dozens of others just like him, who were also provided inadequate assistance by the SBA due to budget cuts and personnel downsizing.

Dr. Wainwright, Vice-President of NERA, and author of many books on this subject, also testified before the Committee. Dr. Wainwright highlighted numerous issues concerning discrimination against minority-owned businesses. Based on his longitudinal studies, Dr. Wainwright demonstrated the continuing effects of discrimination on minority-owned firms in the national marketplace.

Specifically, minority-owned firms were more likely to report that they did not apply for loans because they felt the loan would be denied. In fact, Dr. Wainwright pointed out that minority owned firms were far more likely to be denied loans than non-minority owned firms. In addition, those minority-owned firms who did receive loans were routinely charged higher interest rates.



Furthermore, according to Dr. Wainwright, the level of discrimination in applying for credit has remained constant in the past two decades. These points led Dr. Wainwright to conclude that: "discrimination in business transactions is indeed deeply rooted in the American economy."

The efforts to streamline the SBA in recent years, through budget cuts and personnel reductions, has rendered SBA far less effective in serving the country's small businesses. It is clear that the SBA's programs need to be scrutinized carefully by the Congress so as to make them more effective.

Procurement Policy Issues

The SBA has many programs that are intended to promote small and minority businesses and enhance their ability to achieve success in the Federal procurement marketplace. Several SBA programs help minority businesses "start, grow, and succeed" as the SBA's slogan reads. Unfortunately, growth and success is not the case for many minority-owned businesses. By carefully examining SBA programs, the Congress can pass legislation that would make SBA more effective in supporting the growth and development of small and minority businesses throughout the country.

Contract Bundling

Over the past decade, as a result of procurement reform, and due to budget cuts and personnel reductions, contract bundling has been pursued aggressively by the Federal agencies. Due to the fact that, bundled contracts, by their very nature, are too large for small businesses to compete for, bundling strips small businesses of opportunity to serve as prime contractors.

Contract bundling disproportionately affects small businesses by reducing their access to prime contracts in the Federal marketplace. The impact on small businesses is tremendous when a contract is bundled. It is estimated that for every 100 contracts aggregated into a bundled contract, 106 individual contracts are no longer available to small businesses.

Subcontracting

While contract bundling is causing sufficient harm to small and minority businesses, large Federal contractors often do not fully comply with P.L. 95-507, the law which requires Federal contractors to include small and minority businesses in their subcontracting programs. Tactics used by large Federal contractors to thwart the intent of P.L. 95-507 include "bait and switch" tactics.

In the "bait and switch" approach, the prime secures a quote from a minority subcontractor and incorporates that price in its prime contract bid. Later, after winning the prime contract, the prime contractor re-bids the subcontract and gives the work to other companies rather than the minority subcontractor that submitted the bid that the prime used in submitting its bid.

8(a) Net-Worth Ceilings

The net worth limit (currently \$250,000) is a key determinate in establishing a firm's acceptance into the SBA 8(a) program. Presently, personal net worth of the owner of the applicant company



cannot exceed \$250,000 for entry into the 8(a) Program. In addition, net worth cannot exceed \$750,000 during the 9-year 8(a) term.

If the owner's net worth exceeds \$250,000 upon application for the 8(a) program, the firm is denied acceptance into the program. If the net worth of an 8(a) company owner exceeds \$750,000 during its term in the 8(a) program, the business is removed from program.

USHCC's position is that the net worth limitation of \$250,000 for entry into the 8(a) program is far too low. This results in only the weakest firms being allowed into the 8(a) program. In addition, there should be no limitation on net worth while a firm is in the 8(a) program because net worth limitations are for determining socio-economic disadvantage for purposes of entry into the 8(a) program. USHCC's position is that the same analysis applies to the net worth requirements of the SDB subcontracting program.

Sole-Source Ceilings

Firms participating in the 8(a) program are limited in the size of contracts they can receive on a sole-source basis. For the past two decades, the sole-source ceiling for service contracts has been \$3 million and the ceiling for sole-source manufacturing contracts has been \$5 million (the ceilings were recently raised by SBA to \$3.5 and \$5.5 million). In the present era of large, multi-year IT, environmental remediation and base maintenance contracts, these ceilings are wholly inadequate.

Access to Capital

The number one problem reported by minority business owners is access to capital, whether that is access to SBA guaranteed loans, or discrimination by their local lending institutions.

SBA's flagship loan programs are the 7(a) and 504 loan program. The 7(a) loans guaranteed by SBA are basically for operating capital. In 2006, the 7(a) program loaned \$14.5 billion to small businesses. The 504 loans, on the other hand, are designed to help small enterprises acquire plant, basic equipment and machinery.

The SBA Microloan program serves a deserving and otherwise un-served or (or substantially under-served) sector of the economic community. That is extremely small businesses in start-up mode in economically disenfranchised parts of the country. For this segment of the economic community there are few other avenues for access to capital to start or grow their businesses.

According to the Senate Small Business Committee, the Microloan program has made over 70,000 loans over the years, and that has impacted thousands of employees in low income areas of the country who would otherwise not have jobs. Last year (2006), 2,500 small businesses received \$32.4 million in Microloans nationwide.

According to Maureen Tinen, President of the Union County Economic Development Corp.(New Jersey) whose Microloan program made about 50 loans totaling \$1 million last year, "typical Microloan borrowers are the inner-city laundromat, day-care center and retailer, who stabilize neighborhoods, increase foot traffic and provide critical services."



According to the Senate Small Business Committee, one-in-six employees in this country work for a micro enterprise. Therefore, the micro-enterprise sector in the economy is far larger than many would believe. This is a vital segment of our economic community that needs to be served. The historic repayment rate of the Microloan program is on a par with the regular SBA loan programs, despite the fact that the Microloan program serves entrepreneurs that are the poorest credit risks.

Price Evaluation Adjustment

Price Evaluation Adjustment provides a 10 percent variance in the procurement submission of a SDB in order to promote SDB contracting. The authorization for use of PEA expired for all agencies except the Department of Defense (DOD). The use of the PEA at DOD was significantly weakened by a congressional amendment sponsored by a retiring Member of Congress several years ago. This language prohibited the use of the PEA at DOD as long as the department meets its 5 percent SDB (Small Disadvantaged Business) contracting goal. Consequently, the PEA authority has not been used at DOD for several years because DOD meets the 5 percent requirement in its aggregate contracting.

Alaskan Native Corporations

In recent years, the participation of Alaskan Native Corporations (ANCs) in the SBA 8(a) Program has become troubling. What we thought started out some 20 years ago as a program to create jobs in impoverished tribal communities in Alaska has turned into a sole-source contracting program of grossly exaggerated proportions that is out of control.

ANCs were created in 1971 by Federal law as part of the Alaskan Native Claims Settlement Act. Contrary to popular belief, ANCs are not small, economically disadvantaged tribal businesses. Most ANCs are very large businesses, with multiple divisions and subsidiaries, billions of dollars in revenues, thousands of employees, and offices all over Alaska, the United States and, in some cases, all over the world.

Through special amendments to the original 8(a) legislation, ANCs have been given a host of special procurement privileges. ANCs, for example, may secure 8(a) sole-source contracts of unlimited size. There are many 8(a) sole-source contract awards to ANCs of \$100 million, \$250 million, \$500 million, \$1 billion and even \$2 billion. ANCs are receiving multiple billions of dollars in 8(a) sole-source contract awards per year.

There is no limit on how many 8(a) sole-source contracts ANCs can secure. There are no limits on the aggregate dollar value of ANC 8(a) sole-source contracts. Unlike all other 8(a) firms, individual ANCs can have multiple 8(a) companies under their dominion that are all entitled to 8(a) sole-source contracts of unlimited size. Small business size standards don't apply to ANCs (the way they apply to all other small businesses, including Tribally-owned 8(a) firms). Net worth limits that apply to all other 8(a) firms don't apply to ANCs.

Unlike all other 8(a) firms, ANCs don't have to secure any contracts competitively during their 8(a) tenure. In fact, 100% of their business can be 8(a) sole-source contracts. Unlike all other applicants to the 8(a) program, ANCs (and their 8(a) subsidiaries) do not have to prove economic disadvantage. Whereas, the economic disadvantage criteria for entry into the 8(a) program for



non-ANCs is a net worth of no more than \$250,000, an ANC with \$1 billion in revenues can participate in the 8(a) program. Unlike other 8(a) firms, ANCs are able to remain in the 8(a) program indefinitely through the formation of succeeding generations of new 8(a) businesses.

GAO reports that Federal agencies are favoring ANCs over other 8(a) and small businesses because they can contract with ANCs quickly and easily. GAO also reports that Federal agencies favor ANCs because they can more readily meet their small business contracting goals through large ANC contracts.

We are informed by USHCC member companies that some Federal agencies are bundling work formerly performed (or that could be performed) by local small businesses into large, multi-year contracts for ANCs. It is our belief that these trends are having serious adverse consequences on local small businesses, 8(a) companies, and firms in other socio-economic programs (e.g., HUB Zone, SDVets, Woman-owned, etc.).

We believe that these ANC special privileges area out of control. USHCC's policy position is that there should be a level playing field among all firms participating in the 8(a) program. To that end, we recommend that Congress make legislative changes to the 8(a) program so that ANCs are treated just like all the rest of the firms participating in the 8(a) program.

USHCC Recommendations

Contract Bundling

At the present time, contract bundling is the preferred method of contracting by most Federal agencies. Rather than being viewed as the preferred method of contracting, Federal procurement policy needs to change so that contract bundling is reduced to an absolute minimum. It is well established that the Federal agencies bundle contracts mostly for administrative convenience and not for cost savings. In fact, cost savings achieved through bundling are never satisfactorily demonstrated by the Federal agencies.

Federal agencies must be instructed to use contract bundling only if absolutely necessary, as in the case of national emergencies, such as 9/11 and Katrina. As a matter of Federal procurement policy, bundling should be the contracting method of last resort, not the contracting method of first resort. The definition of bundling should be revised to ensure that small contracts that were previously performed by small businesses do not become part of bundled contracts.

Subcontracting

Large Federal contractors often do not fully comply with P.L. 95-507, the law which requires Federal contractors to include small and minority businesses in their subcontracting programs. The use of "bait and switch" tactics and other ploys by prime contractors need to be eliminated.

In addition, new approaches need to be utilized to induce prime contractors to utilize small and minority businesses in their subcontracting. It is clear that assessing punitive damages on prime contractors that don't achieve their subcontracting goals doesn't work. Despite punitive damages



being on the books for over 20 years, USHCC knows of no single instance wherein this approach has been used. Therefore, it is totally useless.

USHCC recommends a combination of negative and positive inducements. Prime contractors that do not achieve their subcontracting goals, for example, could be assessed a penalty in their award fee. Prime contractors that do accomplish their subcontracting goals, on the other hand, could receive extra award fee. In all instances, however, there needs to be far more oversight with respect to the extent to which prime contractors meet their subcontracting goals.

Net-Worth Ceiling

USHCC's position is that the net worth limitation of \$250,000 for entry into the 8(a) program is far too low. This results in only the weakest firms being allowed into the 8(a) Program. The net worth ceiling for entry into the 8(a) program should be on the order of \$750,000.

In addition, the purpose of net worth ceiling is for determining socio-economic disadvantage for purposes of entry into the 8(a) program. Net worth limits should not be used as a condition for participation during the program. The purpose of the 8(a) program is to build strong companies whose owners have strong net worths. That makes them bankable so that they can finance the growth and development of their companies. Therefore, there should be no limitations on personal net worth of the business owner while a firm is participating in the 8(a) program. USHCC believes the same net worth principles should apply to the SDB subcontracting program.

Sole-Source Ceilings

The sole-source ceilings established by SBA 20 years ago were arbitrary when originally set. They were not based on any industry analysis or any other such factors. In addition, the ceilings were set with no consideration for inflation, industry trends, or the changing procurement practices of the Federal government. In the intervening years, there has been massive procurement reform in the Federal government that has resulted in the use of large, multi-year contracts that were never envisioned when the 8(a) sole-source ceilings were originally established by SBA.

The sole-source ceiling for all 8(a) contracts needs to be raised to \$10 million. In addition, for contracts in areas typified by large, multiyear contracts (IT, environmental remediation and base maintenance), the ceiling needs to be far higher. SBA needs to be directed by Congress to establish far higher sole-source ceilings for the 8(a) program and to conduct a study so as to determine, industry-by-industry, what those sole-source ceilings should be.

USHCC supports legislation that establishes industry-specific sole-source ceilings. For example, IT systems integration contracts are very large and the 8(a) sole-source ceiling for such contracts should reflect the high dollar value of these contracts. Sole-source ceilings should also be higher in other industries that are characterized by large dollar, multi-year contracts, such as the high-tech manufacturing, telecommunications, facilities management, and environment remediation. USHCC supports a sole-source ceiling of \$25 million for these industries.

Access to Capital



The 7(a) and 504 loan program needs to be expanded so that more small businesses and minority businesses are able to secure these loans as needed. In addition, greater efforts are needed to bring these loan programs to small and minority businesses in rural areas.

The Microloan program serves very small enterprises, often start-ups. Budget cuts have weakened the Microloan program over the last six years. Because these loans are critical to stimulating the entrepreneurship of start-ups, often located in low income areas, the Microloan program needs to be significantly expanded.

Price Evaluation Assistance

The USHCC strongly supports a reauthorization of PEA across all agencies in order to enhance SDB contracting in the federal marketplace. We are further concerned that the Department of Defense (DOD) does not meet the 5 percent SDB goal in all industries, nor at all of its procuring activities. There are numerous industries, such as IT, telecommunications and electronics, wherein DOD is substantially underutilizing SDBs. The USHCC believes the PEA should be used in a targeted manner by DOD to ensure that SDBs are being sought out for participation in these areas and not just concentrated in specific lower technology fields (e.g., janitorial, landscaping, data entry, etc.).

In addition, whereas DOD is meeting the 5% SDB goal in the aggregate, there are numerous DOD buying activities and installations wherein the 5% goal is not being met. The USHCC believes that DOD should identify the specific installations and buying activities that are not meeting the 5% SDB goal and issue them appropriate directives for the use of the PEA to assist them in meeting the 5% goal. To those ends, the USHCC supports the use of the SDB PEA at DOD: 1) For specific industries wherein DOD has not met the 5 percent SDB contracting goal, and, 2) At specific DOD installations and buying activities that have not met the 5 percent SDB contracting goal.

Alaskan Native Corporations

USHCC believes that the ANC special procurement privileges area out of control. What started out some 20 years ago as a program to create jobs in impoverished tribal communities in Alaska, the special procurement privileges of the ANCs has turned into a sole-source contracting program of grossly exaggerated proportions that is out of control.

USHCC's policy position is that there should be a level playing field among all firms participating in the 8(a) program. To that end, we recommend that Congress make legislative changes to the 8(a) program so that ANCs are treated just like all the rest of the firms participating in the 8(a) program.

Pending Legislation

The following are some of the bills that USHCC is working on related to small and minority business:



1. HR 1873 - The Small Business Fairness and Contracting Act - The Bill has passed the House and has been referred to the Senate Committee on Small Business and Entrepreneurship. Some of the key provisions of the Bill are:

- Enhances SBA authority to deal with contract bundling
- Increases the goal for Federal small business from 23% to 30%
- Includes participation of overseas contracts in the Federal small business goal
- Requires certain small businesses to recertify their small business status annually so that awards to large businesses are not counted as awards to small businesses
- Requires SBA to develop a database to assist small businesses in marketing to large corporations that have not achieved their small business goals
- Requires SBA to contact registered small businesses regarding federal contracting opportunities
- Requires SBA to improve regulations governing SBA review of subcontracting plans

2. HR 2532 - The MOVE Act - Sponsored by Reps Gwen Moore (D-Wis) and John Barrow (D-Ga) - The Bill proposes major reforms to the 8(a) Program. Such reforms include increasing the net worth entry-level criteria for participation in the 8(a) program from \$250,000 to \$750,000, increasing the 8(a) sole-source ceilings substantially, and other reforms

3. HR 1332 - Small Business Lending Improvement Act - Sponsored by Rep Melissa L. Bean (D-IL) and 7 others – This bill proposes reforms to the 7(a) and the 504 programs. Also included in this bill; SBA mandate for rural lending of \$250,000 or less, assistance for Doctors and Veterans in shortage areas, revises eligibility requirements for CDC's, increased requirements in regards to foreclosure on small businesses, and authorizes SBA loans for projects which reduce energy consumption by at least ten percent..

4. HR 1719 - Securing Equity for the Economic Development of Low Income Areas Act - Sponsored by Rep. Gwen Moore D-Wis - currently in House Small Business Committee – Key Provisions in this bill are:

- Allows non-wealthy minority-owned companies secure non-competitive “sole-source” federal contracts
- Sole-source contracts up to \$6 million and be eligible for competitive contracts up to \$10 million
- This removes the current SBA \$750,000 graduation from the 8(a) program

5. H.R. 3020 - Microloan Amendments and Modernization Act – Sponsored by Rep. Steve Chabot R-OH, Ranking Member of the House Committee on Small Business – This bill updates and expand the SBA microloan program, increase loan amounts, provides for technical assistance to intermediaries, and other improvements.



6. **S 98 - Minority Entrepreneurship Development Act** - Sponsored by Sen. John Kerry, D-MA - currently in Senate Committee Small Business and Entrepreneurship - This bill creates a competitive grant program for Historically Black Colleges and Universities (HBCU), Hispanic Serving Institutions and Tribal Colleges to develop entrepreneurship curriculum and creates a grant program to develop distance learning programs.

7. **S 1256 - Small Business Lending Reauthorization and Improvements Act** - Sponsored by Sen. John Kerry, D-MA - passed by the Senate Committee Small Business and Entrepreneurship - This bill reauthorizes the SBA's small business loan program, including strengthening the microloan program. It also establishes an Office of Minority Small Business Development within the SBA and authorizes \$5 million for that office each year for three years.

